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United Nations

Report of the Committee on the Elimination of Racial Discrimination

General Assembly

Official Records • Fiftieth Session
Supplement No. 18 (A/50/18)

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LETTER OF TRANSMITTAL

18 August 1995

Sir,

In its report a year ago the Committee observed that "events in Rwanda have also demonstrated that it would be more effective to take preventive action before open hostilities break out. Procedures for early warning and urgent action desperately need improvement". During the present year the Committee has taken several initiatives to improve its contribution to the prevention of racial discrimination.

In many conflicts sentiments of ethnic belonging are mixed with sentiments of a religious or political character. The text of the Convention provides little guidance on the differentiation of ethnic from political motivation, while the position is further complicated by its definition of racial discrimination as covering distinctions which are racial either in their purpose or in their effect. In several of the situations considered during 1995, Committee members were uncertain whether the ethnic elements in the apparent tensions were sufficient to bring the situation within the scope of the Convention. They concluded that they should first request further information from the State party and decide later whether the Convention had any bearing upon the situation in question. This action on the Committee's part is described in chapter II of the present report, dealing with preventive measures.

United Nations policies against racial discrimination have usually concentrated upon extreme forms like apartheid or "ethnic cleansing". They have neglected the importance of everyday discrimination, whether it be based upon race, ethnic origin, gender, age, social class or disability, and the features which these have in common. By way of example, we cite the resolutions of the General Assembly on the Third Decade to Combat Racism and Racial Discrimination which referred to "all forms of racism and racial discrimination, whether in their institutionalized form or resulting from official doctrines of racial superiority or exclusivity" (49/146, para. 1). The Committee has identified many forms of racial discrimination which are neither institutionalized nor the result of official doctrines. Racial discrimination occurs, or can occur, in almost any circumstances and has many causes. Any statement on this subject should take account of the principal lessons that have been learned since the adoption of the Convention in 1965.

Many State officials have only a partial understanding of racial discrimination. For example, in 1994, 16 States informed the United Nations that racial discrimination and xenophobia did not exist on their territory (A/49/677, para. 45). The Committee on the Elimination of Racial Discrimination has found, to the contrary, that it is everywhere possible for a person to receive less favourable treatment because of his or her race, colour, descent, or national or ethnic origin. It is sad that, 25 years after the Committee started its work, its contributions have not been better studied and better understood. The Committee therefore welcomes the studies being conducted as part of the Migration for Employment Programme of the International Labour Office which, by the use of experimental methods, illuminate the nature and

His Excellency Mr. Boutros Boutros-Ghali
Secretary-General of the United Nations
New York

incidence of racial discrimination. Comparable studies could well be carried out in other fields, such as housing. If such studies were to be conducted in countries which believe themselves to be free from racial discrimination, the findings might well be salutary.

Chapter III of the present report describes the Committee's consideration of the implementation of the Convention in 22 States. In 18 instances this consideration has been based upon periodic reports submitted by the State party. In two cases it has been based upon the Committee's procedure in respect of States whose periodic reports are seriously overdue; one of these have now been reviewed for a second time under this procedure. The States parties at their sixteenth meeting may like to consider whether any action is needed from them when periodic reports have been overdue for such long periods.

The Committee's activities in respect of the prevention of discrimination have added greatly to its workload and are obliging it to adjust its working methods.

Subsequent chapters of this report describe the Committee's action in respect of individual communications, the Third Decade to Combat Racism and Racial Discrimination (including its collaboration with the Subcommission on the Prevention of Discrimination and Protection of Minorities), the United Nations Decade for Human Rights Education, and meetings with the Special Rapporteurs of the Commission on Human Rights on the former Yugoslavia and on racism and xenophobia. The Committee has adopted a general recommendation on article 3 of the Convention and has given consideration to proposed general recommendations on article 5, and on the relevance to the Convention of the right of self-determination. Mr. T. Mazowiecki advised the Committee against following the reasoning of those who say that they cannot live in a pluralistic society, but the Committee had already gone on record (A/48/18, paras. 468-469) as "concerned that partition along ethnic lines in Bosnia and Herzegovina could encourage groups elsewhere who were unwilling to respect the territorial integrity of States. The Committee strongly supported the principle of multi-ethnic societies ... ." Nothing has happened since then to weaken our support for this principle, and much has happened to underline its importance. Frontiers are to be preserved, and people have to be helped to live peacefully with all others whose homes are within these frontiers. The prevention of discrimination is crucial to future peace.

(Signed) Ivan Garvalov
Chairman
Committee on the Elimination
of Racial Discrimination

I. ORGANIZATIONAL AND RELATED MATTERS

A. States parties to the International Convention on the Elimination of All Forms of Racial Discrimination

1. As at 18 August 1995, the closing date of the forty-seventh session of the Committee on the Elimination of Racial Discrimination, there were 143 States parties to the International Convention on the Elimination of All Forms of Racial Discrimination, which was adopted by the General Assembly in resolution 2106 A (XX) of 21 December 1965 and opened for signature and ratification in New York on 7 March 1966. The Convention entered into force on 4 January 1969 in accordance with the provisions of its article 19.

2. By the closing date of the forty-seventh session, 21 of the 143 States parties to the Convention had made the declaration envisaged in article 14, paragraph 1, of the Convention. Article 14 of the Convention entered into force on 3 December 1982, following the deposit with the Secretary-General of the tenth declaration recognizing the competence of the Committee to receive and consider communications from individuals or groups of individuals who claim to be victims of a violation by the State party concerned of any of the rights set forth in the Convention. The States parties to the Convention and those that have made the declaration under article 14 are listed in annex I to the present report, as are the States parties (17) that have accepted the amendments to the Convention adopted at the Fourteenth Meeting of States Parties, as at 18 August 1995.

B. Sessions and agenda

3. The Committee on the Elimination of Racial Discrimination held two regular sessions in 1995. The forty-sixth (1070th-1098th meetings) and forty-seventh (1099th-1128th meetings) sessions were held at the United Nations Office at Geneva from 27 February to 17 March and from 31 July to 18 August 1995 respectively.

4. The agendas of the forty-sixth and forty-seventh sessions, as adopted by the Committee, are reproduced in annex II.

C. Membership and attendance

5. In accordance with the provisions of article 8 of the Convention, the States parties held their fifteenth meeting at United Nations Headquarters on 17 January 1994 1/ and elected nine members of the Committee from among the candidates nominated to replace those whose term of office was due to expire on 19 January 1994.

6. The members of the Committee for 1994-1996, including those elected or re-elected on 17 January 1994, are as follows:

Name of member	Country of nationality	Term expires on 19 January
Mr. Mamoud ABOUL-NASR**	Egypt	1998
Mr. Hamzat AHMADU**	Nigeria	1998
Mr. Michael Parker BANTON**	United Kingdom of Great Britain and Northern Ireland	1998
Mr. Theodoor van BOVEN	Netherlands	1996
Mr. Andrew CHIGOVERA*	Zimbabwe	1998
Mr. Ion DIACONU	Romania	1996
Mr. Eduardo FERRERO COSTA	Peru	1996
Mr. Ivan GARVALOV	Bulgaria	1996
Mr. Régis de GOUTTES**	France	1998
Mr. Carlos LECHUGA HEVIA**	Cuba	1998
Mr. Yuri A. RECHETOV	Russian Federation	1996
Mrs. Shanti SADIQ ALI	India	1996
Mr. Agha SHAHI**	Pakistan	1998
Mr. Michael E. SHERIFIS**	Cyprus	1998
Mr. SONG Shuhua	China	1996
Mr. Luis VALENCIA RODRIGUEZ	Ecuador	1996
Mr. Rüdiger WOLFRUM	Germany	1998
Mr. Mario Jorge YUTZIS	Argentina	1996

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* Elected on 17 January 1994.

** Re-elected on 17 January 1994.

7. All members of the Committee except Mr. Diaconu attended the forty-sixth session and all members attended the forty-seventh session.

D. Officers of the Committee

8. The officers elected at the forty-fourth session for a term of two years continued to serve at the forty-sixth and forty-seventh sessions. They are as follows:

Chairman: Mr. Ivan GARVALOV

Vice-Chairmen: Mr. Hamzat AHMADU
Mr. Carlos LECHUGA HEVIA
Mr. Michael SHERIFIS

Rapporteur: Mr. Michael Parker BANTON

E. Cooperation with the International Labour Organization and the United Nations Educational, Scientific and Cultural Organization

9. In accordance with Committee decision 2 (VI) of 21 August 1972 concerning cooperation with the International Labour Organization (ILO) and the United Nations Educational, Scientific and Cultural Organization (UNESCO), 2/ both organizations were invited to attend the sessions of the Committee.

10. Reports of the ILO Committee of Experts on the Application of Conventions and Recommendations, submitted to the International Labour Conference, were made available to the members of the Committee on the Elimination of Racial Discrimination, in accordance with arrangements for cooperation between the two Committees. The Committee took note with appreciation of the reports of the Committee of Experts, in particular of those sections which dealt with the application of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111) and the Indigenous and Tribal Populations Convention, 1957 (No. 107), as well as other information in the reports relevant to its activities.

F. Other matters

11. Mr. Ibrahima Fall, Assistant Secretary-General for Human Rights, addressed the Committee at the opening of the forty-sixth session (see CERD/C/SR.1071).

12. At its 1070th meeting (forty-sixth session), held on 27 February 1995, the Committee observed one minute of respectful silence in memory of Mr. André Braunschweig, former member of the Committee, and Mrs. Kati David, Secretary-General of the Anti-Racism Information Service (ARIS), and paid tribute to Mr. Enayat Houshmand who had recently retired from his service with the United Nations and who had made substantive and dedicated contributions to the Committee since its beginning in 1970.

13. The Special Rapporteur of the Commission on Human Rights on the situation of human rights in the territory of the former Yugoslavia, Mr. Tadeuz Mazowiecki, met with the Committee at its 1071st meeting, held on 27 February 1995. Mr. Mazowiecki explained his working methods and current concerns, and the members of the Committee held a dialogue with him with regard to his analysis of the nature of the conflicts currently taking place in States on the territory of the former Yugoslavia.

14. At its 1070th meeting, held on 27 February 1995, the Committee decided to conduct a general debate on the subject of racial discrimination. The general debate occurred at the 1073rd and 1074th meetings, held on 28 February and 1 March 1995. In the course of the discussion, members made reference, inter alia, to the origins of the phenomenon of racial discrimination, the implementation and effectiveness of the International Convention on the

Elimination of All Forms of Racial Discrimination, the need to improve cooperation between the various international responses to racial discrimination, the working methods of the Committee and the value of drafting new general recommendations. Concerning the first two points it was noted that there had been a rise in expressions of racial hatred and a recurrence of the propagation of absurd racist theories. In that regard concern was expressed as to the extent of implementation of article 4 of the Convention. Members also considered that the Committee should devote closer attention to the implementation of the obligations contained in article 7 of the Convention with regard to the development of programmes of education to combat racist thought and racial discrimination.

15. During the general debate members expressed the view that the Committee's working methods might be improved and there was emphasis on the need for improved flows of relevant information from other international sources, such as on the activities of special rapporteurs of the Commission on Human Rights and of other treaty bodies. A number of members drew attention to the importance of close collaboration with the Council of Europe in order to share information and to develop complementary rather than potentially competing work practices. The important role of non-governmental organizations in informally presenting information to Committee members was stressed.

16. It was agreed during the general debate that the Committee should draft a general recommendation on the issue of self-determination which would indicate the position of the Committee on that very important matter. A number of members also proposed that the Committee and the other treaty bodies should be represented when the General Assembly discussed their annual reports, in order to present the reports orally and to hold direct discussion with the Member States at the General Assembly.

17. At its 1098th meeting, held on 17 March 1995, the Committee adopted decision 9 (46), entitled "Contribution of the Committee on the Elimination of Racial Discrimination to the United Nations Decade for Human Rights Education", indicating the provisions of the Convention which address the issue of education to counter racial discrimination, drawing attention to the continuing work of the Committee in implementing those provisions, and offering comments on elements of the report of the Secretary-General on the United Nations Decade for Human Rights Education (A/49/261/Add.1). The text of the decision is reproduced in annex III.

18. At its 1125th meeting, held on 17 August 1995, the Committee adopted general recommendation XIX (47) on article 3. The text of the general recommendation is reproduced in annex VII.

G. Adoption of the report

19. At its 1127th meeting, held on 18 August 1995, the Committee adopted its annual report to the General Assembly.

II. PREVENTION OF RACIAL DISCRIMINATION, INCLUDING EARLY WARNING AND URGENT PROCEDURES

20. The Committee decided at its forty-first session to establish as one of its regular and principal agenda items, the item on the prevention of racial discrimination, including early warning and urgent procedures.

21. At its forty-second session (1993), the Committee noted the conclusion adopted by the fourth meeting of persons chairing the human rights treaty bodies that:

> "... the treaty bodies have an important role in seeking to prevent as well as to respond to human rights violations. It is thus appropriate for each treaty body to undertake an urgent examination of all possible measures that it might take, within its competence, both to prevent human rights violations from occurring and to monitor more closely emergency situations of all kinds arising within the jurisdiction of States parties. Where procedural innovations are required for this purpose, they should be considered as soon as possible" (A/47/628, para. 44).

22. As a result of its discussion of that conclusion of the meeting of chairpersons, the Committee, at its 979th meeting, held on 17 March 1993, adopted a working paper to guide it in its future work concerning possible measures to prevent, as well as more effectively respond to, violations of the Convention. 3/ The Committee noted in its working paper that efforts to prevent serious violations of the International Convention on the Elimination of All Forms of Racial Discrimination would include the following:

(a) Early warning measures: these would be aimed at addressing existing problems so as to prevent them from escalating into conflicts and would also include confidence-building measures to identify and support structures to strengthen racial tolerance and solidify peace in order to prevent a relapse into conflict in situations where it has occurred. In that connection, criteria for early warning could include some of the following concerns: the lack of an adequate legislative basis for defining and criminalizing all forms of racial discrimination, as provided for in the Convention; inadequate implementation of enforcement mechanisms, including the lack of recourse procedures; the presence of a pattern of escalating racial hatred and violence, or racist propaganda or appeals to racial intolerance by persons, groups or organizations, notably by elected or other officials; a significant pattern of racial discrimination evidenced in social and economic indicators; and significant flows of refugees or displaced persons resulting from a pattern of racial discrimination or encroachment on the lands of minority communities;

(b) Urgent procedures: these would aim at responding to problems requiring immediate attention to prevent or limit the scale or number of serious violations of the Convention. Possible criteria for initiating an urgent procedure could include the presence of a serious, massive or persistent pattern of racial discrimination; or that the situation is serious and there is a risk of further racial discrimination.

23. At its 1028th and 1029th meetings, held on 10 March 1994, the Committee considered possible amendments to its rules of procedure which would take into account the working paper it had adopted in 1993 on the prevention of racial discrimination, including early warning and urgent procedures. During the discussions which followed, the view was expressed that it was too early to make

changes in the rules of procedure in order to take account of procedures adopted only very recently. There was a risk that the Committee might be locking itself into rules which would soon no longer fit needs. It would, therefore, be better for the Committee to have more experience with the procedures in question and to amend its rules at a later point on the basis of that experience. At its 1039th meeting, held on 17 March 1994, the Committee decided to postpone to a later session further consideration of proposals to amend its rules of procedure.

24. The following sections describe decisions adopted and further action taken by the Committee at its forty-sixth and forty-seventh sessions within the framework of its efforts to prevent racial discrimination. At earlier sessions the Committee had commenced consideration under this agenda item of Israel, Croatia, Bosnia and Herzegovina, the Federal Republic of Yugoslavia (Serbia and Montenegro), Papua New Guinea, Rwanda and Burundi. At the forty-sixth session the Committee decided also to consider under this agenda item the Russian Federation, Mexico, Algeria and the former Yugoslav Republic of Macedonia. At the forty-sixth session decisions were adopted concerning the Russian Federation, Mexico, Algeria, the former Yugoslav Republic of Macedonia, Burundi, Rwanda and Papua New Guinea. The situation in Croatia, Bosnia and Herzegovina, the Federal Republic of Yugoslavia (Serbia and Montenegro) and Israel was considered at the forty-sixth session under agenda item 3 and is reported accordingly. At the forty-seventh session decisions were adopted concerning Burundi, Bosnia and Herzegovina and Papua New Guinea. At the forty-seventh session further consideration of the Russian Federation and the former Yugoslav Republic of Macedonia was deferred to the forty-eighth session. Action at the forty-seventh session concerning Algeria is described below. The situation in Mexico was considered at the forty-seventh session under agenda item 3 and is reported accordingly.

A. Decisions adopted by the Committee

25. The following decisions were adopted by the Committee under this agenda item at its forty-sixth session.

1 (46). Report requested urgently from the Russian Federation

The Committee on the Elimination of Racial Discrimination views with concern the situation of human rights in the Republic of Chechnya. It expresses alarm over the disproportionate use of force by the Russian armed forces and the massive loss of life which has resulted in Chechnya. The Committee deplores the destruction of civilian property. It condemns all violations of human rights and of international humanitarian law. It calls for all those who have committed such violations to be brought to justice.

The Committee on the Elimination of Racial Discrimination calls urgently for an immediate cessation to the fighting and for a dialogue to achieve a peaceful solution while respecting the territorial integrity and the Constitution of the Russian Federation.

The twelfth and thirteenth periodic reports of the Russian Federation were due on 5 March 1992 and 1994 respectively. Bearing in mind its powers under article 9, paragraph 1 (b), of the International Convention on the Elimination of All Forms of Racial Discrimination, the Committee requests the Russian

Federation to expedite its periodic reports to permit their consideration at the Committee's forty-seventh session.

The Committee further requests the United Nations High Commissioner for Human Rights to inform it of the results of his dialogue with the Russian Government in implementation of his mandate with a view to securing respect for all human rights.

1086th meeting
9 March 1995

2 (46). Decision on the situation in Mexico

The Committee on the Elimination of Racial Discrimination expresses its concern about reports of serious conflicts in the State of Chiapas which particularly affect some indigenous populations in Mexico.

The Committee has received the ninth and tenth periodic reports of Mexico and scheduled them for consideration at its forty-seventh session in August 1995. In accordance with article 9, paragraph 1, of the International Convention on the Elimination of All Forms of Racial Discrimination, the Committee requests the Government of Mexico to submit further information on the situation in Chiapas in time for consideration together with the ninth and tenth reports.

The Committee decides to bring this text to the attention of the United Nations High Commissioner for Human Rights.

1086th meeting
9 March 1995

3 (46). Reports requested urgently from Algeria

Alarmed by the continuing violence in Algeria, the Committee on the Elimination of Racial Discrimination, in accordance with article 9, paragraph 1, of the International Convention on the Elimination of All Forms of Racial Discrimination, requests the Government of Algeria to expedite its eleventh and twelfth periodic reports, due on 15 March 1993 and 1995 respectively, with particular reference to article 5 (b) of the Convention.

1089th meeting
10 March 1995

4 (46). Report requested urgently from the former Yugoslav Republic of Macedonia

Concerned by reports of ethnic tension, the Committee on the Elimination of Racial Discrimination requests the Government of the former Yugoslav Republic of Macedonia to expedite its initial report, due on 18 January 1995, in order to facilitate consideration at the Committee's forty-seventh session of the implementation of the International Convention on the Elimination of All Forms of Racial Discrimination in the former Yugoslav Republic of Macedonia.

1089th meeting
10 March 1995

6 (46). Report requested urgently from Burundi

Concerned by reports of continuing ethnic tension in Burundi, the Committee, in accordance with article 9, paragraph 1, of the International Convention on the Elimination of All Forms of Racial Discrimination, requests the Government of Burundi to expedite its seventh, eighth and ninth periodic reports, due on 26 November 1990, 1992 and 1994 respectively, in order to facilitate consideration at the Committee's forty-seventh session of the implementation of the Convention in Burundi, including specific information on the measures taken by the Government to reorganize public institutions to ensure balanced participation by all population groups in the conduct of public affairs.

The Committee is alarmed by reports of the atmosphere of impunity prevailing in Burundi and supports the appeal for an increased international presence made by the United Nations High Commissioner for Human Rights on 16 February 1995 to prevent further deterioration of the situation.

1097th meeting
16 March 1995

7 (46). Rwanda

The Committee expresses its dismay at the tragic circumstances prevailing in Rwanda and endorses the conclusions of the Special Rapporteur of the Commission on Human Rights on the situation of human rights in Rwanda (E/CN.4/1995/71, paras. 49-51). It underlines his statement in paragraph 50 that very rapid action is required if the international community is not to be the powerless spectator of a second war and further massacres, and his recommendation 4 (b) about the convening of an international conference. The Committee also underlines the conclusions of the representative of the Secretary-General on internally displaced persons (see E/CN.4/1995/50/Add.4) concerning the importance of international action to secure the return of displaced persons.

The Committee decides that this text should be transmitted to the United Nations High Commissioner for Human Rights.

1097th meeting
16 March 1995

8 (46). Papua New Guinea

The Committee reiterates its concluding observations, adopted at its 1010th meeting, on 19 August 1993, and at its 1060th meeting, on 12 August 1994, in which it expressed concern at reports of serious human rights violations in Bougainville, including summary executions and population transfers, as well as possible large-scale mining operations in Bougainville without due regard to the rights of the ethnically distinct population or the adverse effects of environmental degradation.

It notes with appreciation that a process to re-establish peace on the Papua New Guinea island of Bougainville has been initiated and that the "Mirigini Charter" was signed on 25 November 1994. The Committee, however, notes with concern that most leaders of the Bougainville Revolutionary Army and the organization known as the Bougainville Interim Government did not participate in the Bougainville Peace Conference, held in October 1994, which provided the basis for discussions leading to the signing of the "Mirigini Charter".

The Committee urges that in the future all parties participate in the negotiations towards a total cessation of armed conflict and the restoration of peace, which is crucial to the full implementation of human rights without distinction as to race, colour or national or ethnic origin.

The Committee renews its offer to the Government of Papua New Guinea to provide assistance in efforts to strengthen national mechanisms for the promotion and protection of human rights and in particular for protection against racial discrimination. It calls upon the Government of Papua New Guinea to renew its dialogue with the Committee, in accordance with article 9 of the Convention, and to expedite its periodic reports which were due on 26 February 1985, 1987, 1989, 1991, 1993 and 1995, respectively, and which should contain specific information on the situation prevailing on the island of Bougainville. Such information should reach the Committee in time to be considered at its forty-seventh session in August 1995.

1097th meeting
16 March 1995

26. The following decisions were adopted by the Committee under this agenda item at its forty-seventh session.

1 (47). The situation in Burundi

The Committee on the Elimination of Racial Discrimination,

Alarmed by reports of the breakdown of law and order in large parts of the territory of Burundi, a State party to the International Convention on the Elimination of All Forms of Racial Discrimination, which is leading to a further deterioration in a critical situation that has the potential for genocide,

Recalling its decision 2 (45) on the same subject, and reiterating the concerns and recommendations contained in that decision,

Fearing that the breakdown of law and order may cancel the benefits of the current efforts of the United Nations to support civil institutions in the country,

Endorsing the recommendations of the Representative of the Secretary-General (E/CN.4/1995/50/Add.2, chap. III) and the Special Rapporteur on extrajudicial, summary or arbitrary executions (E/CN.4/1996/4/Add.1, chap. VI),

Decides:

(a) To ask the General Assembly and the Security Council to take decisive steps with a view to stopping all violence and preventing another explosive conflict and to begin, in cooperation with the Government and all political forces in Burundi, to implement the following recommendations, in particular:

(i) A new police force should be created, staffed by persons drawn proportionately from all ethnic groups who have not been implicated in earlier human rights violations and who can act expeditiously when there is any risk of further ethnic violence;

(ii) The army should be reduced in size and organized for the defence of the territorial integrity of the country. In the prevailing circumstances the army should not be used for the suppression of civil disorders. A programme should be adopted to ensure that, within the present generation, the army is composed of persons drawn proportionately from all ethnic groups;

(iii) The judiciary and the civil administration should be reorganized and retrained so that they represent the whole society. The functioning and impartiality of the criminal courts require close attention. Human rights violations on the part of the military must be treated as criminal offences;

(iv) Measures should be taken as a matter of urgency to halt incitement to or promotion of racial or ethnic hatred disseminated by radio or other mass media and to ensure that those responsible for such incitement or promotion are brought to justice. A special chamber of the court of Bujumbura should be created to deal with criminal offences committed by those responsible for such violations;

(v) Residential neighbourhoods of Bujumbura which previously were ethnically mixed should be rehabilitated. New associations should be established to channel the energies of young people into economic rehabilitation and social development;

(vi) A national institution for the promotion and protection of human rights should be established in accordance with recommendations of the Commission on Human Rights and the Committee on the Elimination of Racial Discrimination. The institution should implement programmes and projects to combat ethnic prejudices and promote peaceful relations between the various ethnic groups of the society;

(vii) An international presence should be maintained including, in particular, the maintenance of a team of human rights observers;

(b) Also to ask the General Assembly to appeal to all States and to the Security Council to halt the supply of arms to all parties until law and order in Burundi are secured.

1124th meeting
16 August 1995

2 (47). The situation in Bosnia and Herzegovina 4/

The Committee on the Elimination of Racial Discrimination,

Concerned at the massive, gross and systematic human rights violations which continue to occur on the territory of Bosnia and Herzegovina, and reiterating its concluding observations adopted at its 1097th meeting, held on 16 March 1995,

Deeply concerned about reports that attacks, particularly on the United Nations Protected Areas of Srebrenica and Zepa, in the Krajina area, as well as in other places, were directed against civilians and civilian installations, and about grave mistreatment of, crimes committed against and killing of innocent civilians, contrary to international humanitarian law and relevant Security Council resolutions,

Alarmed that the hostilities in and around Srebrenica and Zepa, in the Krajina area, as well as in other places, have resulted in a significant flow of refugees and in the eviction and detention of persons, resulting in an "ethnic cleansing" of the areas concerned,

Deeply concerned that according to reports many of the former inhabitants of the United Nations Protected Areas of Srebrenica and Zepa, of the Krajina region and of other places have disappeared and still cannot be accounted for,

Decides:

(a) Firmly to re-emphasize that any attempt to change or to uphold a changed demographic composition of an area against the will of the original inhabitants, by whatever means, is a violation of international law;

(b) To demand that all parties to the conflicts fully ensure the safety of all detained persons under their control and disclose all information concerning all missing persons;

(c) Also to demand that persons be given the opportunity to return safely to the places they inhabited before the beginning of the conflict and that their safety be guaranteed, as well as their effective participation in the conduct of public life;

(d) Urgently to call upon the international community, in particular all the European States, to render assistance to refugees and detained persons directly and through the United Nations High Commissioner for Refugees, the International Committee of the Red Cross and all other organizations involved in assistance to refugees;

(e) Firmly to re-emphasize that all those who commit violations of international humanitarian law or war crimes shall be held individually responsible for such acts, calls upon all States to cooperate fully with the International Tribunal for the prosecution of war crimes committed in the former Yugoslavia, and demands that States implement the necessary legislation to ensure their unimpeded and effective cooperation with the International Tribunal;

(f) Urgently to call for the provision to Bosnia and Herzegovina of all means to protect itself in accordance with Article 51 of the Charter of the United Nations and to live within safe and secure borders;

(g) To express its solidarity with the former Special Rapporteur of the Commission on Human Rights, Mr. Tadeusz Mazowiecki, agreeing with him that the response of the international community has been slow and ineffectual in reacting to the massive human rights violations in Bosnia and Herzegovina;

(h) To transmit the present resolution immediately to the Secretary-General of the United Nations for his attention and, through him, to the General Assembly and the Security Council, and recommends that the United Nations take all necessary measures to provide for the strict implementation of resolutions in the areas referred to and in particular to undertake urgent efforts for the assistance to refugees and detained persons.

1126th meeting
17 August 1995

3 (47). The situation in Papua New Guinea

The Committee refers to its concluding observations adopted at its 1010th meeting, on 19 August 1993, and at its 1060th meeting, on 12 August 1994, together with its decision 8 (46), adopted at its 1097th meeting, on 16 March 1995. In decision 8 (46) the Committee reiterated its concerns regarding ongoing human rights violations in Bougainville, welcomed positive developments such as the signing of the "Mirigini Charter", and urged that all sectors of the population be permitted to play a part in programmes for the restoration of a durable peace. The Committee also requested the Government to expedite outstanding periodic reports, due for submission under article 9 of the Convention, in time for their consideration by the Committee at the present session.

The Committee regrets the failure of the Government to submit the outstanding reports or to otherwise respond to the request of the Committee to renew a dialogue.

The Committee again calls on the Government to take all necessary steps to halt and redress human rights abuses in Bougainville based on ethnic grounds. In particular, it should undertake confidence-building measures enabling all the people of Bougainville to participate directly in decisions and processes directed towards a peace settlement and the re-establishment of civil society.

The Committee reiterates its request to the Government that it submit without further delay outstanding reports under article 9 of the Convention, preferably in time for their consideration at the forty-eighth session of the Committee in March 1996.

The Committee notes that the information on the human rights situation received by the Secretariat is not sufficient to assess the situation in Bougainville.

The Committee brings the present decision to the attention of the United Nations High Commissioner for Human Rights and requests him to take any possible action under his mandate towards its implementation.

1124th meeting
16 August 1995

B. Further action taken by the Committee

27. The Committee, in its decision 3(46), entitled "Reports requested urgently from Algeria", adopted at its 1089th meeting, on 10 March 1995, expressed its alarm at the continuing violence in Algeria and requested the Government of that country to expedite its eleventh and twelfth periodic reports, due on 15 March 1993 and 1995 respectively, with particular reference to article 5 (b) of the Convention.

28. The Committee welcomed the attendance at its 1119th meeting, held on 14 August 1995, of the representative of the Government of Algeria, as well as the indication that a full written report would soon be submitted. The representative presented information on the current situation in the country, particularly with regard to the treatment of foreigners. The representative emphasized that his Government abhorred attacks on foreigners, vigorously pursued perpetrators, and in all respects ensured that foreign victims of crime were treated equally to citizen victims. He noted, for instance, that citizens and non-citizens alike could benefit from programmes of compensation for personal injuries and damage to property.

29. Members of the Committee expressed appreciation for the information provided by the representative. They noted the commitment of his Government to submit a written report and requested that it be submitted in time for consideration at a session of the Committee in 1996. Members indicated that, prior to submission of that report, there was continued uncertainty as to the extent to which the ongoing violence was a subject of specific concern to the Committee within the provisions of the Convention, although they noted their competence with regard to attacks directed against foreigners. In that regard, members welcomed the initiatives taken by the Government to protect foreigners.

III. CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION

A. Reports considered

30. At its forty-sixth and forty-seventh sessions, the Committee considered reports, comments and information from 22 States parties under article 9 of the Convention. Country rapporteurs are listed in annex VI.

Trinidad and Tobago

31. The seventh, eighth, ninth and tenth periodic reports of Trinidad and Tobago, submitted in one document (CERD/C/224/Add.1), were considered by the Committee at its 1072nd meeting, held on 28 February 1995 (see CERD/C/SR.1072).

32. The reports were introduced by the representative of the State party who indicated that since the submission of the last report, the Government of Trinidad and Tobago had enacted a series of laws intended to promote the interests of various sectoral interest groups. The representative then emphasized that the information on the ethnic and religious composition of the population provided by the most recent census was merely one of record-keeping for statistical purposes. The Government continued to maintain that the categorization of the population along those lines might lead to racial division and disharmony, and that the country should not pursue strategies for development which divided the nation along racial or ethnic lines. The Government had worked to integrate all the people of Trinidad and Tobago, on a non-discriminatory basis, into one society.

33. Members of the Committee welcomed the fact that Trinidad and Tobago had decided to resume submitting periodic reports after a hiatus of eight years and urged the Government to continue its renewed dialogue with the Committee.

34. Members of the Committee asked why the Caribs had all but disappeared, exactly how many were left, why they were not treated as a separate racial group and whether measures were being taken to help them, particularly in the economic and educational fields, so as to compensate them for the injustices they had suffered.

35. Members of the Committee also asked why there were no political refugees in Trinidad and Tobago, although in some neighbouring countries political persecution was resulting in flows of refugees, or whether the refugees in Trinidad and Tobago enjoyed some other status.

36. With regard to article 4, members of the Committee noted, as during the consideration of the sixth report, that the Sedition Act posed a problem in that a seditious intention, as defined by the Act, was extremely difficult to prove in practice and that the Act, while it admittedly conformed to the provisions of article 4 (a), in no way conformed to those of subparagraph (b). It did not seem enough to condemn organizations or organized groups preaching discrimination in any form. Members therefore wondered whether specific legislative measures had been taken since 1987 to supplement existing measures concerning the implementation of article 4.

37. Regarding the implementation of the provisions of article 5 of the Convention, some members of the Committee noted that it would be helpful to have the results of the survey of recruitment practices in the public and private

sectors which was scheduled to be carried out in 1994, and to know whether the survey had revealed cases of racial discrimination in hiring. Some members of the Committee asked why the numbers of Trinidad nationals of African origin employed in the public and private sectors differed from the numbers of those of Indian origin employed, although the size of the two communities was about the same. They asked whether measures had been taken by the Government to redress that ethnic imbalance with regard to employment. On the question of education, members of the Committee asked why there was such an overwhelming predominance of Catholic schools, while Hindu schools seemed few in number. Members also asked whether all social groups enjoyed equal access to higher education.

38. With regard to article 6, members noted that victims of acts of discrimination could apply to the High Court and asked whether Trinidad law provided for remedy procedures which were less protracted and less costly and whether the fact that no cases of alleged State violations of human rights on grounds of race, origin, colour, religion or sex had been brought before the High Court might not be due to unfamiliarity with the provisions of the Convention.

39. On article 7, members asked about the existence of information programmes designed to familiarize police officers with the provisions of the Convention.

40. Finally, members asked whether the Trinidad authorities intended to make the declaration referred to in article 14 of the Convention and, in accordance with the Committee's general recommendation XVII (42) and with various recommendations of the Commission on Human Rights and the United Nations General Assembly, establish a national institution to facilitate the implementation of the Convention.

41. In reply to the Committee's questions and observations, the representative of the State party explained that Trinidad had no refugee problem because people wishing to emigrate went to other countries in the region, such as the United States of America. However, two members of a Haitian junior football team had recently applied for, and been granted, refugee status.

42. There were historical reasons for the differences in the distribution of ethnic groups between the public and private sectors. Following the abolition of slavery, former slaves, who were of African descent, settled in towns, while people of Indian descent, who had been hired as agricultural workers, remained in the rural areas, mainly where sugar cane was grown.

43. There was no racial obstacle to access to education. Students wishing to take higher studies were selected on the basis of their examination results at the end of secondary school. Similarly, students wishing to take secondary studies must sit an entrance examination which was the same throughout the country.

Concluding observations

44. At its 1094th meeting, held on 15 March 1995, the Committee adopted the following concluding observations.

(a) Introduction

45. Appreciation is expressed as to the submission of the report and the readiness of the Government of Trinidad and Tobago to resume, after a break of eight years, a dialogue with the Committee. It is noted with regret that the

report under consideration did not comply with the Committee's revised general guidelines for the preparation of reports. However, the oral dialogue allowed the Committee to re-establish cooperation with the Government of Trinidad and Tobago with a view to the effective implementation of the provisions of the Convention.

(b) Positive aspects

46. Appreciation is expressed with regard to the commitment of the Government of Trinidad and Tobago to combat racial discrimination and hatred and the efforts made by the State party to comply with the provisions of the Convention.

(c) Principal subjects of concern

47. It is noted that there is a lack of information provided by the Government of Trinidad and Tobago with regard to the legal status of the Convention in the domestic legislation. Concern is expressed at the failure to adopt legislative, administrative and other measures implementing article 4 of the Convention (especially paragraph (b)). It is noted that the report did not provide adequate information on access of the various ethnic groups to primary, secondary and tertiary education. It is also regretted that the report did not give a clear picture of the actual implementation of articles 6 and 7 of the Convention.

(d) Suggestions and recommendations

48. The Committee calls upon the Government of Trinidad and Tobago to report to the Committee on a regular basis, in compliance with its obligations under article 9 of the Convention. The Committee recommends that appropriate consideration be given by the State party to the effective implementation of article 4 of the Convention, especially paragraph (b), in national legislation. The Committee recommends that more publicity be given to make the public aware of the right to seek from national tribunals just and adequate reparation for any damage suffered as a result of racial discrimination. The Committee further recommends that police officials receive intensive training to ensure that in the performance of their duties they uphold the human rights of all persons without distinction as to race, colour, descent or ethnic origin. The Committee, noting that the eleventh report of Trinidad and Tobago was due on 4 November 1994, invites the Government to submit a brief report on matters outstanding as a result of the Committee's consideration of the tenth report. It expects the twelfth report to be comprehensive and to be submitted by 4 November 1996.

Cyprus

49. The Committee considered the eleventh, twelfth and thirteenth periodic reports of Cyprus (CERD/C/263/Add.1) at its 1077th and 1078th meetings, held on 2 and 3 March 1995 (see CERD/C/SR.1077-1078).

50. In introducing the report, the representative of the State party stated that his country had a system of legal provisions which guaranteed and safeguarded human rights, and that international legal provisions were superior to all non-constitutional law. He noted that Cyprus had made the declaration under article 14 of the Convention and was considering ratification of the amendment to article 8, paragraph 6. Attention was also drawn to the new law which, in compliance with article 4 of the Convention, penalized certain behaviour.

51. The representative referred to the occupation of part of his country's territory by Turkish forces and drew attention to the consequent inability of the Government to guarantee human rights in those areas. Violations of human rights were said to occur in those areas and to affect people of varied ethnic origins.

52. The Committee members expressed satisfaction as to the quality of the report, the presence of a high-level government delegation and the additional information provided orally. Among the governmental initiatives which were welcomed were the new laws enhancing implementation of article 4, the various educational initiatives which implemented article 7, the making of the declaration under article 14 and the steps taken towards ratification of the amendment to article 8, paragraph 6, of the Convention.

53. The members deplored the continued occupation of part of the territory of the State party. Among the gravest of the effects of the occupation was a form of "ethnic cleansing" and the resultant changes in demographic composition. Requests were made for updated demographic information. It was asked whether the Government could do more to foster reconciliation with the separatists.

54. Concerning article 2 of the Convention members asked for further information on the general legal regime for protection of human rights and expressed surprise that no one should ever have invoked those provisions. Details were requested concerning the role of the Supreme Court in matters of human rights adjudication.

55. Some members expressed unease concerning the definition of incitement to racial hatred as requiring specific intent.

56. With regard to implementation of article 5 members requested further information on the protection of religious rights, including information on the effects of the apparently hierarchical listing of religions in the Constitution. Questions were also asked concerning the extent of genuine equality enjoyed by members of minority religions such as the Muslim community (including Muslims of Turkish origin).

57. Concerning articles 6 and 7 of the Convention a number of members asked whether the lack of recourse to legal procedures to protect human rights might be due to a lack of education in those matters. It was also suggested that the public might lack confidence in the existing procedures. A member asked specific questions about human rights education at various levels of the school system.

58. In replying to the questions of the members the representative of the State party expressed his gratitude for a useful dialogue with the Committee and gave assurances that matters not dealt with orally would be addressed in the next report of his country.

59. Concerning the various issues arising from the naming of religious groups in the Constitution he expressed regret that the terms of the Constitution were imposed on his country as a condition of its independence and that any amendments would be problematic.

60. Further details were provided on the human rights violations perpetrated in the occupied parts of the territory of the State party including confiscations of the property of non-Muslims and the preferential treatment given to "colonists" from Turkey. He noted that the Greek Cypriot community, 82 per cent

of the entire population, was now restricted to 63 per cent of the territory. A number of international initiatives emphasizing the territorial integrity of Cyprus were described. The representative stated that the entire responsibility for the ongoing crisis in Cyprus was attributable to Turkey.

61. Information was provided on the manner in which human rights matters were dealt with by the courts and the role of the Supreme Court.

62. The representative assured the Committee that freedom of religion was constitutionally ensured and strictly respected including in matters of non-discriminatory employment practices.

63. Details were given of the range of educational and publicity initiatives sponsored or supported by the Government concerning awareness of human rights issues. Thus, for instance, considerable media attention focused on such events as the annual day for the elimination of racial discrimination. Public officials were trained in human rights matters. It was also explained that the press enjoyed full freedom from government interference and that education was provided at the university level in both the Greek and Turkish languages.

Concluding observations

64. At its 1094th meeting, held on 15 March 1995, the Committee adopted the following concluding observations.

(a) Introduction

65. The opportunity to continue the constructive and frank dialogue with the State party is welcomed. It is noted with satisfaction that the report was prepared by a committee composed of representatives of governmental ministries directly involved with matters relating to the implementation of the Convention. Appreciation is expressed at the presence of a high-level delegation, which serves as an indication of the importance the State party attaches to the implementation of the Convention, and for the additional information it presented orally to the Committee.

(b) Positive aspects

66. The legislative measures introduced with a view to enhancing the implementation of article 4 of the Convention are welcomed.

67. Satisfaction is expressed as regards the measures taken to promote the objectives of article 7 of the Convention. In this connection, the initiatives taken within the fields of education and information with a view to combating prejudices which may lead to racial discrimination, as well as to promoting understanding and tolerance among nations and to developing awareness of the human rights provisions of the Charter of the United Nations and the present Convention, deserve special mention.

68. It is noted with appreciation that the Government has made the declaration provided for under article 14 of the Convention recognizing the Committee's competence to receive and consider communications from individuals or groups claiming to be victims of a violation of any of the rights set forth in the Convention. It is also noted with satisfaction that the State party has initiated procedures for its acceptance of the amendment to article 8, paragraph 6, of the Convention, which is concerned with budgetary matters relating to the work of the Committee.

69. It is also noted with satisfaction that the State is a party to numerous international and regional human rights instruments under which supervisory mechanisms have been established.

(c) Principal issues of concern

70. It is deplored that since 1974 the State party, due to the lengthy occupation of part of Cyprus by Turkish forces and the continued division of the country, is not in a position to exercise control over the whole of its territory and in consequence cannot ensure the implementation of the provisions of the Convention throughout the country. According to recent reports received, this reality has led to changes in the demographic composition of the population due to the increasing illegal settlement of persons from Turkey in the occupied area of Cyprus. The Committee requests the Government of Cyprus to furnish it with information on developments concerning the occupation of parts of Cyprus by Turkish forces as soon as possible.

71. While welcoming the enactment of Law 11 of 1992 which created offences regarding acts amounting to racial discrimination, a question is raised about whether the wording of certain passages in section 2A meet completely the requirements of article 4 (a) of the Convention.

(d) Suggestions and recommendations

72. The Committee wishes the State party to provide, in its next report, further information on the demographic composition of the population, the trends as regards immigration to and emigration from the country and the breakdown by community and ethnic group as regards their economic and social situation.

73. The Committee would also like to receive information in the State party's next report on the implementation of articles 2 and 6 of the Convention, including as regards any complaints of racial discrimination received, the outcome of the prosecution of any cases of racial discrimination and the redress, if any, provided to persons suffering from such discrimination.

74. The Committee expresses grave concern at the deprivation of the specific rights guaranteed under the Convention of a great number of Cypriots due to the Turkish occupation of part of the territory of Cyprus, and reiterates its call for an end to this totally unacceptable state of affairs. The Committee also expresses its solidarity with the displaced people of Cyprus, its Vice-Chairman, Michael E. Sherifis, among them, and reiterates the earnest hope that they will be enabled, without further delay, to exercise their freedom of movement and residence and their right to property, as provided in article 5 (d) (i) and (v) of the Convention.

75. The Committee has taken note of the information provided in paragraphs 21 to 24 of the report which make reference to religious groups and the rights accorded to them by the Constitution. Although the Committee would have preferred to refer to them as ethnic groups, it is fully aware that the respective constitutional provisions of Cyprus are based upon international agreement which are not within the power of the Cyprus Government to amend.

76. The Committee welcomes the State party's willingness to develop public awareness of and information on human rights. In this regard, the Committee recommends that the Government consider undertaking measures to disseminate to the general public information concerning the Convention and the work of the Committee. It welcomes the fact that the report to the Committee was publicized

and invites the Government of Cyprus to give maximum publicity to the concluding observations of the Committee.

Italy

77. The eighth and ninth periodic reports of Italy (CERD/C/237/Add.1) were considered by the Committee at its 1075th to 1077th meetings, on 1 and 2 March 1995 (see CERD/C/SR.1075-1077).

78. The report was introduced by the representative of the State party who stated that his country attached particular importance to all problems concerning discrimination and intolerance. However, he noted that events that could amount to intolerance had occurred in areas where there was a particularly high concentration of foreigners from countries outside Europe, mostly from North Africa. He noted the importance, during recent years, of persons migrating, de facto or de jure, into Italy, especially from North Africa and Eastern European countries. In the case of displaced persons from the former Yugoslavia, he made reference to a special law which gave them the opportunity to enter Italy, at least temporarily, and to be provided with housing, food, education and so on.

79. The representative also made reference to the monitoring of the problem of nomads, in particular to facilities with regard to the schooling of children and other social action programmes. He emphasized that Italy had deemed it appropriate to take a step forward in its action to prevent and punish any form of racism, intolerance and xenophobia by adopting Act No. 205, criminalizing the mere act of incitement to discrimination and expanding the content of the term "racial discrimination". This new legislation had made it possible for the judiciary and the police to take action against neo-Nazi organizations. The representative indicated that the Ministry of Education recently reminded local authorities of the need to intensify efforts to achieve inter-cultural education in schools at all levels.

80. Members of the Committee welcomed the detailed information given in the report and orally, but they noted that the report concentrated on legal provisions; it failed to provide information on the nature of the problems or to supply practical examples showing the implementation of laws and policies. They asked the representative whether non-governmental organizations were involved in the preparation of periodic reports and whether the Committee's concluding observations were given any publicity.

81. With reference to article 2 of the Convention, members of the Committee wished to receive information about the effectiveness of the new provisions described in paragraphs 7 to 15 of the report. They also wished to receive precise information on the extreme right-wing groups and gangs of "skinheads" referred to in the report; whether they had links with political parties; whether they attracted young people; what penalties were imposed on those groups through the new Act No. 205 of 25 June 1993 and what follow-up there had been by the police and the courts to the reported incidents of violence against foreigners. They expressed satisfaction for the special status given to three regions inhabited by persons speaking minority languages, and asked for information on the status of other linguistic minorities elsewhere in Italy. They also asked for more information about specific cases of racial violence in the recent past, particularly against Romas, Jews and people from North Africa. In addition, they asked the representative to provide the Committee with information on the demographic composition of the Italian population, with specific reference to ethnic minorities, including the Roma community; on racist

incidents and on social indicators, which included the crime rate and the rates of imprisonment, alcoholism, drug use and trafficking, prostitution, suicide and certain diseases, especially AIDS, for various groups, such as foreign nationals and migrant workers.

82. With regard to article 4 of the Convention, members wanted to know whether the laws referred to in the report, in particular Decree-Law No. 122, had been fully implemented; whether individuals or groups had been prosecuted under those laws; whether the provisions described covered all aspects of racial discrimination referred to in article 4 of the Convention and whether revisionism was a crime in Italy. They also wanted to know whether consideration was given by his Government to withdrawing the reservation made to article 4 of the Convention.

83. Concerning article 5 of the Convention, members wished to know whether there was any surveillance of police operations; what action was taken in respect of the victims of racial discrimination by the police and whether those responsible for discrimination were retrained or disciplined. They asked whether the legislation concerning political asylum for non-European Union citizens (Act No. 39 of February 1990) was more restrictive in matters relating to the status and employment of the people concerned than the ordinary Italian legislation in those areas and whether there were plans to amend this Act; they asked about the results of the campaign to get non-European Union citizens to renew their residence permits and whether there was any discrimination against migrant workers in the workplace and in housing. They would have liked information on the regulations governing the deportation of aliens; on statistics about the number and nationality of aliens deported in recent years, and where they had been sent; on people refused admission to Italy on the grounds of public order; on the number of people granted political asylum in Italy and their countries of origin; on the number of people currently living in centres for immigrants and in "reception facilities", on the conditions in those centres and facilities and on the possibility for courts, foreigners' associations or interested non-governmental organizations to have access to them in order to monitor conditions there, and whether special arrangements were made for Albanians and refugees from the former Yugoslavia. They also asked for information on the council for the problems of non-European Union workers and their families, on the way immigrants' representatives were chosen, and on the existence of any special agreement between the State and the Muslim community comparable to that between the State and the Jewish community.

84. With regard to article 6 of the Convention, members of the Committee regretted that there seemed to have been no developments in the individual's right to seek redress before the courts for acts of racial discrimination; in that connection, they asked for details and statistics on complaints, prosecutions and convictions in cases of acts of racism of all kinds. With regard to the reservation made by Italy to article 6 of the Convention, members asked whether consideration was given to its withdrawal.

85. Concerning article 7 of the Convention, members asked for more information about measures taken to promote inter-cultural and multiracial education; on the integration of foreign pupils into Italian schools in practice and on the number of pupils, including those from non-European Union countries, receiving education on an individual or small-group basis.

86. In their reply, the representatives of Italy said that a procedure for the withdrawal of Italy's reservations to the Convention had been set in motion. All the statistical information which members had requested would be provided

later in writing. However, they were able to state that, according to the local authorities and some non-governmental organizations, there had been about 300,000 illegal residents in Italy at the end of 1994. The 1990 Martelli Act had changed the regulations governing immigrants by enabling the authorities to set a yearly limit on the number of aliens who would be allowed to immigrate into Italy, with the figure being published each year in a decree. That Act had also provided for a national council and regional councils of representatives of workers from non-European Union countries appointed directly by non-Union workers' associations. The membership of those councils reflected the size of the various communities in each area. Some regions had laws encouraging the formation of non-Union workers' associations by granting subsidies. Illegal immigration continued to be a major social problem in Italy, but was difficult to monitor or eradicate.

87. On the question of reception centres, a distinction should be drawn between foreign nationals applying for refugee status and non-European Union workers. The former were permitted to stay for 45 days, pending the authorities' decision regarding their admission, and the latter were accommodated in primary reception centres set up in each region and subsidized by the State. They therefore had housing and health care and enjoyed freedom of movement. It was difficult to determine their exact number, as the centres were merely transit facilities. With regard to housing, a number of voluntary organizations acted as intermediaries between owners and foreign workers by acting as guarantors for the latter. Some local authorities reserved a portion of their public housing for foreign workers and their families and, in some cases, the State and local authorities made abandoned buildings available to immigrant communities, with the sole proviso that they renovate them.

88. Between 1991 and 1993, some 100 court actions had been instituted against persons responsible for acts of racial discrimination. In 20 cases, proceedings had been discontinued and in 20 others, sentences had been handed down. It should be noted, however, that those figures were incomplete as, in cases where an act of discrimination was associated with another crime or offence, it was often the latter which was the basis for the court's decision. Moreover, the measures associated with the new Act No. 205 of 25 June 1993 empowered the courts to impose penalties including the performance of community service. With regard to the number of racially motivated incidents, three or four serious incidents involving criminal acts directed against the Roma community had taken place near Rome and two others near Bologna in which two members of the Roma community had died; a Roma encampment near Caseta had also been destroyed in a fire which had been deliberately set, resulting in charges being brought against 29 persons. Anti-semitic acts included three or four cases of desecration of Jewish cemeteries, for which a number of individuals had been prosecuted.

89. The representative of Italy said that, concerning the ban on organizations linked with Fascist ideology, a number of those organizations had been banned under a 1952 law, including the Ordine Nuovo and Fronte Celtico, and that some extreme right-wing or "skinhead" groups had been banned under Decree-Law No. 122 of 1993, including the Movimento Politico Occidentale in Rome and the Front Nazionale in Verona. Two groups of judges in Rome were concentrating on incidents of racial discrimination: one dealt with minority issues and the other with violent and politically linked incidents of xenophobia, racism and intolerance.

90. On the question of detention, there was no discrimination in law regarding the application of prison regulations; the prison authorities had attempted to remedy the language problem by providing excerpts from the regulations in

foreign languages and offering Italian language courses. Measures had been taken to remove obstacles to the exercise of religious freedom in prisons. The prison authorities had facilitated the formation of a national organization to look into the question of foreign prisoners.

91. With regard to expulsions, under the Act of 12 August 1993, foreign nationals in pre-trial detention for offences not considered serious, or persons sentenced to imprisonment for up to three years were expelled immediately at their request or the request of their attorneys and were sent back to their country of origin or departure, provided they had no serious health problems or were not in danger for reasons related to war or an epidemic. Generally speaking, there were two expulsion procedures: expulsion orders, whereby the authorities gave notice to leave the country within 15 days and the person concerned could appeal to the local administrative tribunal (in 1994, only 6,000 of 56,000 expulsion orders issued had actually been carried out), and escort to the frontier in the case of persons guilty of very serious crimes or whose situation was highly irregular.

92. In connection with questions related to special agreements with the Muslim community in Italy, the representatives said that the Muslims had no supreme national authority, like that of Jews or Seventh Day Adventists, with which such an agreement could be concluded; however, there had been agreements between Italian authorities and Muslim communities at the local level.

Concluding observations

93. At its 1096th meeting, held on 16 March 1995, the Committee adopted the following concluding observations.

(a) Introduction

94. The Committee welcomes the opportunity to continue its regular dialogue with the Italian Government. It expresses its satisfaction at the presence of a large delegation, consisting mainly of officials of the various ministries concerned with the protection of human rights. While the report lacks information on some points and is not entirely in conformity with the Committee's guidelines for the preparation of reports, the information provided by the delegation during its oral introduction and the replies to a number of questions asked by members of the Committee shed light on a number of points not made clear in the report. Nevertheless, some questions remained unanswered.

(b) Positive aspects

95. It is noted with satisfaction that Italy is one of the States parties which has made the declaration under article 14 of the Convention and that it has in practice abandoned its reservations to the Convention and instituted a procedure for their formal withdrawal.

96. It is also noted that Italy grants special status, guaranteed under the Constitution, to some linguistic or ethnic minorities in the Trento-Alto Adige, Friuli-Veneto Giulia and Valle d'Aosta regions.

97. The establishment of national and regional councils for the problems of non-Community workers and their families is noted with interest. Positive measures have also been taken for the regularization, vocational training and health care of non-Community foreigners, as well as for the prevention of illegal employment.

98. The introduction of some new measures to combat the resurgence of racial violence is noted with satisfaction. These measures included Act No. 2061/C of 1992, instituting urgent measures on racial, ethnic and religious discrimination and, with regard to the right of asylum, the adoption of Act No. 39-90 of 1990, instituting urgent measures on political asylum, entry, residence and regularization of non-Community citizens and stateless persons.

99. New measures concerning inter-cultural education are also noted with satisfaction. They include additional hours of instruction for pupils experiencing problems, most of whom are pupils of foreign origin confronted with the language barrier, and the ministerial circular on the equal distribution of foreign pupils in classes to promote their social integration.

(c) Principal subjects of concern

100. Concerns are expressed about the manifestations of racism and xenophobia which seem to be on the rise in Italy, as in many other countries. One of the subjects of concern in this regard is the high proportion of young people in extremist groups involved in acts of racial violence and the support they are apparently able to secure from some political circles.

101. Concerns are expressed about some cases involving the ill-treatment of foreigners of non-Community origin by police officers and prison staff.

102. Concern is also expressed regarding the social trends towards segregation in housing and work.

103. Regret is also expressed regarding the limited amount of information in the first general part of the report and the absence of details on the practical implementation of articles 2 to 6 of the Convention.

(d) Suggestions and recommendations

104. The Committee recommends that the Italian authorities urgently make more effective the measures to curb racial violence and xenophobia in all their forms.

105. The Committee expects the Italian Government, in its next periodic report, to provide fuller information on the first general part and on the implementation of the provisions of the Convention, notably articles 2 to 6.

106. Emphasizing the decisive role of the justice system in eliminating racial discrimination, the Committee asks to be provided with information on the effectiveness of remedies in cases of racial discrimination, on the number and content of complaints of racial or racially motivated offences, and on the judicial action taken on those complaints and the redress or compensation awarded to the victims.

107. The Committee requests further information on the actual operation of reception centres for foreigners and refugees at frontiers, on the control exercised over those centres by the judicial authorities and on the extent to which refugee assistance associations and organizations are permitted access to them.

108. The Committee would also like, in future, to be provided with full and up-to-date data on the composition of the population, on the "social indicators"

of non-integration of the least favoured social groups of the population, on migratory flows and on the number of foreigners expelled.

109. Finally, the Committee draws the State party's attention to the amendment to article 8, paragraph 6, of the Convention, approved at the Fourteenth Meeting of States Parties and by the General Assembly in its resolution 47/111 of 16 December 1992, and invites it to consider taking measures necessary for the official acceptance of the amendment.

Sri Lanka

110. The third, fourth, fifth and sixth periodic reports of Sri Lanka, submitted in one document (CERD/C/234/Add.1) were considered by the Committee at its 1079th and 1080th meetings, held on 3 and 6 March 1995 (see CERD/C/SR.1079-1080).

111. The report was introduced by the representative of the State party who expressed confidence in the constructive dialogue between his country, the Committee and other United Nations human rights mechanisms. He drew particular attention to a recent major constitutional change whereby administrative power had been devolved to provincial councils in response to the demands of minorities, and Tamil had been made an official language.

112. The representative described the work and powers of the Official Languages Commission, established in 1991, which monitored compliance with the constitutional provisions concerning language and recommended policy concerning official languages. Problems concerning minorities were also being addressed through initiatives in the field of employment. Further to recommendations of the Youth Commission, there was now a policy of positive discrimination to redress under-representation of minority ethnic groups in the public service, subject to restrictions laid down by the Supreme Court. Developments in promoting human rights education in schools, universities and professional courses were also described.

113. The representative stated that considerable progress in promoting human rights had occurred following a change of Government in 1994. A range of measures to promote peace in the northern part of the country were described, including a ceasefire and peace negotiations with the Liberation Tigers of Tamil Eelam (LTTE), consideration of devolution options for minority groups in the region and rehabilitation projects. He also noted that the Government had established a Ministry of Ethnic Affairs and National Integration and would soon put before Parliament a proposal to establish a national Human Rights Commission. The representative presented to the Committee a document entitled, "Sri Lanka - Human Rights", which outlined his country's action in the field of human rights since the submission of the sixth periodic report.

114. The members of the Committee commended the State party on the quality of its report, prepared in accordance with the Committee's guidelines, and thanked the representative for the information provided orally. Measures taken by the Government to find a political solution to problems in the northern and eastern provinces were welcomed as were the recent constitutional and legislative changes and the establishment of the Ministry of Ethnic Affairs and National Integration. Members expressed approval for the increased promotion of human rights education in the country and the expressed willingness of the Government to cooperate with international human rights mechanisms and institutions.

115. Concerning article 2 of the Convention, members put a number of questions about the 1978 Constitution and the extent to which its provisions could be suspended in times of emergency. Clarifications were also requested as to its compatibility with international law and the status of international human rights law in the national legal system. Members requested information on the operation of emergency legislation and the proposed national Human Rights Commission. Information was requested as to whether, in its efforts to combat discrimination within the terms of article 1 of the Convention, the Government was considering ratification of relevant ILO conventions and Protocol II Additional to the Geneva Conventions of 12 August 1949.

116. Concerning article 4, further information was requested regarding the practical application of the criminal law provisions concerning prosecution of manifestations of racial and religious hatred. Members also expressed unease as to the effectiveness of those provisions and the fact that they did not address acts of hatred other than those which are racial or religious.

117. In discussing implementation of article 5, a number of members drew particular attention to the situation of the Tamil, Sinhalese and other communities. More information was requested on matters including freedom of movement between the mainland and the Jaffna peninsula and elsewhere, the role of the army and the extent to which it might impede national reconciliation, the reports of the ongoing practice of torture by the security forces and the work of the Presidential Commission investigating abductions and disappearances. A member asked about the fate of some 4,000 to 5,000 Sinhalese who the Government stated in 1991 were to be detained for life. Information was requested on the status of some 85,000 stateless Tamils of Indian origin currently in the country.

118. Other matters queried in terms of article 5 were the treatment of workers, notably women in free trade zones, trade union freedoms and equal employment opportunities. A member queried the extent to which ethnic quotas were or might be employed to select from among candidates for government posts, with reference, inter alia, to the information in the report that Muslims were allotted 8 per cent of such posts.

119. Concerning implementation of article 6 members asked for further information on the work of the commissions set up to examine cases of bribery and corruption, disappearances and political murders as well as on the extent of protection provided to those who had been threatened for taking legal action against the State in matters concerning alleged abuse of human rights. Further information was also requested on the effectiveness of legal remedies for violations of rights protected by the Convention and on the role and activities of the ombudsman. Some members expressed concern as to the extent to which the variety of human rights monitoring and redress bodies might overlap or effectively hinder one another in the carrying out of their activities.

120. The representative of the State party in commencing his replies expressed satisfaction with the dialogue with the Committee and gave assurances that matters not dealt with orally would receive consideration in his country's next report.

121. The representative explained the security exigencies which had prevented the holding of a national census and gave details of the new constitutional reforms, including the strengthening of human rights guarantees. He emphasized that the changes would restrict the possibility of limiting a range of rights other than for purposes of maintaining public order. The representative

clarified that the policy of the State was to ensure compatibility of national laws with international standards prior to adhesion to the international instruments.

122. The state of emergency declared for the entire country on 24 October 1994 was still in effect in certain regions.

123. The representative provided information to the effect that many of the detainees referred to by members had now been released and that there was an ongoing inquiry which made recommendations on release and conditions of detention. The Government would, he stated, take all necessary action to halt and punish violations of human rights.

124. The representative described in some detail the mandate and composition of the proposed national Human Rights Commission and indicated that its reports would be put regularly before Parliament.

125. In response to the questions of a member the representative explained the reasons for restricted freedom of movement between the mainland and the Jaffna peninsula and expressed his Government's determination to improve the situation.

126. Clarifications were given concerning the nature of the Muslim and Tamil communities and on consultations with Muslim communities in matters concerning their welfare.

127. The representative contended that the number of disappeared persons in the country was considerably less than the number of 60,000 mentioned by a member. He described government policy concerning the future role of the armed forces and ongoing programmes of human rights education for troops. Also described were strategies to care for and bring about the return of displaced people. Other institutional initiatives to redress human rights problems included the human rights task force, the independent commission on corruption, the Centre for the Independence of Magistrates and Advocates, implementation of recommendations of the United Nations Working Group on Enforced or Involuntary Disappearances, the Presidential Commission of Inquiry on Involuntary Disappearances, the Ombudsman, etc. The role of the Supreme Court was described.

128. The representative denied that religious freedom, freedom of expression or trade union and employment rights were limited in a manner inconsistent with the Convention.

129. In conclusion, the representative presented figures on the ethnic composition of the public service and its recruitment policy.

Concluding observations

130. At its 1094th meeting, held on 15 March 1995, the Committee adopted the following concluding observations.

(a) Introduction

131. The Committee commends the State party on the quality of its report prepared in accordance with the Committee's guidelines for the preparation of State party reports and expresses its appreciation to the State party's delegation for additional information that it provided to the Committee orally. It notes with satisfaction the submission by Sri Lanka of the core document

(HRI/CORE/1/Add.48) and of the document entitled "Sri Lanka - Human Rights" containing information of a general character. The Committee regrets, however, that the third, fourth, fifth and sixth periodic reports have not been submitted on time and that the report under consideration combines the third to sixth reports and covers a period of almost 10 years.

(b) Positive aspects

132. Measures adopted by the People's Alliance Government of Sri Lanka with a view to finding a political solution to the problems affecting the northern and eastern provinces are welcomed. Those measures, particularly the commencing of negotiations with the Liberation Tigers of Tamil Eelam (LTTE), the elaboration of the rehabilitation projects of some US$ 800 million for the northern province, and the signing of a cessation of hostilities agreement with LTTE which came into effect on 8 January 1995 pave the way to national integration and to the promotion of national reconciliation between all communities of the Sri Lankan society.

133. Also welcomed are legislative and administrative measures recently adopted by the Government with a view to fostering and consolidating the process of peaceful resolution of the conflict situation prevailing in the country during the period under review. Among measures noted are the thirteenth amendment to the Constitution providing, inter alia, for the creation of the mechanism of provincial councils to satisfy minority demands and for the introduction of Tamil as an official language in addition to the Sinhalese language, with English as the link language; the amendments to the Parliamentary Commissioner for Administration Act No. 17 of 1981 simplifying the procedure for submission and consideration of complaints; the creation of the Ministry of Ethnic Affairs and National Integration; and the announced establishment of a national Human Rights Commission which would be yet another forum through which the minorities could seek redress of their grievances.

134. Noted with satisfaction are measures taken by the Government to disseminate knowledge of human rights among the various segments of the national community by, inter alia, the incorporation of human rights concepts into school curricula; training in human rights provided for law enforcement officials; and introduction of human rights as a subject in undergraduate and postgraduate university studies.

135. The readiness of the Government of Sri Lanka to cooperate with various United Nations human rights monitoring mechanisms and other intergovernmental and non-governmental organizations and institutions in the domain of human rights protection is appreciated.

(c) Factors and difficulties impeding the application of the Convention

136. It is noted that the situation prevailing in the country during the period under review has not been conducive to the effective implementation of the Convention and has made it difficult for the State party to comply with its reporting obligations, thus preventing the Committee from fulfilling its obligations in accordance with article 9, paragraph 1, of the Convention.

(d) Principal subjects of concern

137. It is noted with concern that the state of emergency in effect intermittently since 1983 continues in a significant part of the national

territory. The Committee hopes that the situation will improve so that the state of emergency can be lifted.

138. Concern is expressed that the State party has not provided sufficient information on the implementation of the provisions contained in articles 4 and 5 of the Convention.

(e) Suggestions and recommendations

139. The Committee draws the State party's attention to the obligation under article 9 of the Convention to report regularly and that the seventh report, due on 20 March 1995, be submitted without delay.

140. The Committee recommends that the State party pay more attention to sensitizing the members of the law enforcement agencies, security and armed forces about human rights.

141. The Committee also recommends that the State party, in its seventh periodic report, provide more detailed information on the system of human rights organs functioning in the country, and in particular on how their mandates relate to the rights mentioned in the Convention; information on how these organs interact and coordinate their activities is also requested.

142. It is recommended that the Government provide the Committee with the information necessary to assess its implementation of articles 4 (b) and 5 (e) of the Convention. The Government is reminded that it should adopt specific penal legislation in accordance with General Recommendation 15.

Croatia

143. The Committee, in concluding observations adopted at the forty-third session,5/ requested additional information from Croatia concerning measures taken to give effect to the provisions of the Convention. The Committee considered the additional information (CERD/C/249/Add.1) at its 1087th and 1088th meetings, held on 9 and 10 March 1995, respectively (see CERD/C/SR.1087-1088).

144. The representative of the State party in presenting the additional information noted that some of the Committee's previous queries had been rendered obsolete by time and others had become more pressing. As a source of background information he distributed copies of a text entitled "Human rights in Croatia". He noted the importance of the mission to his country by a member of the Committee and further drew attention to findings of the Council of Europe concerning the human rights situation in Croatia.

145. Attention was drawn to the important human rights safeguards contained in the Constitution and the Constitutional Law on Human Rights and Freedoms and the Rights of National and Ethnic Communities or Minorities. The representative explained that a provision queried earlier by the Committee, in which it seemed that the Supreme Court appointed members of the Parliament, was actually a constitutionally valid act of affirmative action to ensure parliamentary representation of Serbs.

146. With regard to implementation of human rights safeguards the representative noted the enormous problems posed by the ongoing war and occupation of parts of the national territory by secessionist forces. Even in areas away from conflict zones the war caused major economic problems and presented the challenge of

caring for enormous numbers of displaced persons (who constitute some 8 per cent of the Croatian population).

147. The representative assured the Committee that following the war there would be no reprisals or discriminatory actions taken against Serbian people and that they would enjoy full respect for their human rights. He affirmed the commitment of Croatia to support the work of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 (the International Tribunal), and in general to bring violators of human rights to justice.

148. The representative acknowledged that there were isolated incidents in Croatia of expressions of racial hatred; however, the Government was reluctant to limit freedom of expression, in reaction not least to the decades of repressive communist rule.

149. With regard to article 2 of the Convention a number of members expressed concern about the Government of Croatia's expressed intention to end the mandate of the United Nations Protection Force and the implications of such action for the security of minorities in various parts of the country. Questions were asked concerning the extent to which the Government would cooperate with the work of the International Tribunal in bringing war criminals to justice. Also, members wished to know the extent of prosecutions undertaken in the country for acts of racial discrimination and sought information on the activities of the various State bodies charged with protecting the rights of minority groups.

150. Members wished to know the situation of various minority groups, including Roma gypsies and those of Serb or Italian origin.

151. Members expressed concern that Croatian law and government policy seemed to fail to comply with the terms of article 4 of the Convention and they requested clarifications in this regard.

152. Pursuant to the terms of article 5 of the Convention, members expressed concern about the situation of large numbers of displaced people, mostly of the Muslim religion, who had sought shelter in Croatia consequent upon war conditions in the Bihac area of Bosnia and Herzegovina. The plight of other refugees from Bosnia and Herzegovina was also mentioned and reference was made to indications of possibly discriminatory criteria for the granting of refugee status. With regard to the granting of nationality, Members inquired about possibly discriminatory policies militating against people of the Muslim faith or of Serb origin.

153. Members inquired about the Government's efforts to protect the Serb minority and drew attention, inter alia, to reports of illegal evictions which the State had failed to prevent. The Government was also asked to comment on allegations of human rights abuses against Roma gypsies.

154. With regard to human rights abuses and violations of the Convention in areas under the de facto control of secessionist forces, members inquired as to what Croatia was doing to bring about a peaceful reintegration of the territories and to assist in the quest for missing persons.

155. Concerning article 6 of the Convention, members asked about allegations that people of Serb origin and Roma gypsies had great difficulty in obtaining justice in the courts. Enquiries were also made as to the effectiveness of the

judicial system in processing complaints of human rights abuses and the extent to which courts have been seized of such matters.

156. Pursuant to article 7 of the Convention, members wished to know what human rights training was provided for members of the security forces.

157. It was asked whether the Government would consider accepting the right of individual petition under article 14 of the Convention.

158. In replying to the members the representative reaffirmed his Government's commitment to human rights but noted the extreme difficulties presented by the war situation and the exigencies of putting in place the apparatus of a modern democracy. Further details were provided on the various State institutions charged with protection of human rights, and the role played by the Council of Europe. The status of the Convention in national law was clarified; any failure to cite it in court was probably attributable to a lack of awareness on the part of lawyers.

159. With regard to the International Tribunal and the initiatives of the United Nations to trace missing persons, the complete support of Croatia was reaffirmed and the manner of cooperation was explained. Also, the representative presented the rationale behind Croatia's policy with regard to the United Nations Protection Force.

160. The representative explained that the Government was endeavouring to fully respect the rights of all minority groups, including Roma gypsies and those of Serb, Italian and Albanian origin, and of displaced people, and was to the extent possible extending to them all the social and educational support of the State. Furthermore, the wishes of the various groups were fully taken into account in the development of government policy. Expulsions of displaced people and decisions on citizenship were in full conformity with the law (which is, however, currently being reviewed).

161. A range of the specific points raised by members was addressed by the representative. Croatian law and policy endeavoured to protect human rights, but in a number of instances, such as the freedom of the media, the Government might modify the current position.

162. The representative stated that the Government was anxious to respect the rights of people resident in areas under the de facto control of secessionist forces and was actively pursuing a peaceful resolution of the conflict. It was noted that recent agreements with the rebel forces had brought some improvement to the quality of life of residents of the areas.

Concluding observations

163. At its 1096th meeting, held on 16 March 1995, the Committee adopted the following concluding observations.

(a) Introduction

164. The opportunity to continue the constructive dialogue with the State party is welcomed and appreciation is expressed concerning the readiness of the State party to provide the additional information which had been requested by the Committee. The presence of a high-level delegation and the extent to which it presented additional information orally and in written form to the Committee is indicative of the desire of the State party to take seriously its obligations

under the Convention. Also acknowledged with appreciation is the invitation and assistance offered to the Committee's good-offices mission to Croatia which took place in 1994.

(b) Positive aspects

165. The stated commitment to normalize inter-ethnic relations is welcomed as are the advances which have been made in democratic institution-building. The establishment of a Constitutional Court is especially important and ongoing preparations for the activation of bodies such as a provisional court of human rights are noted. Satisfaction is expressed concerning the adherence of Croatia to the Council of Europe's human rights protection mechanism for non-members. The State party is to be commended for its willingness to cooperate fully with the International Tribunal for the former Yugoslavia and with mechanisms of the Commission on Human Rights, including the special process for disappeared persons and the Special Rapporteur for the former Yugoslavia.

(c) Factors and difficulties

166. It is deplored that the State party, due to the fact that parts of its territory are controlled by secessionist forces, is not in a position to exercise control over the whole of its territory and in consequence cannot ensure the application of the provisions of the Convention throughout the State. It is noted that the secessionist forces are responsible for systematic violations of human rights in areas under their de facto control, including rights ensured by the Convention, the principal victims of which are those not belonging to the Serb or Croatian Serb communities.

167. The enormous problems for the State party posed by the effects of the hostilities in the former Yugoslavia are noted. In particular the difficulties in meeting the needs of the large numbers of refugees and displaced persons are acknowledged.

(d) Principal subjects of concern

168. Great concern has been expressed about the earlier intention of the State party not to permit the military, civilian and police components of the United Nations Protection Force to remain in the country. It is considered that withdrawal may have the gravest implications for minority ethnic groups and displaced persons in the United Nations Protected Areas (UNPAs), the demilitarized zone and elsewhere.

169. While recognizing the considerable problems confronted by the State party in meeting the needs of refugees and displaced persons, unease is expressed as to recent practices which have particularly affected refugees of Bosnian Muslim origin. Note is taken of reliable reports that many such refugees have failed or had great difficulty and extreme delay in obtaining the necessary documentation to allow them access to essential social and humanitarian services in Croatia, and have thus been obliged to return to sometimes life-threatening situations in Bosnia and Herzegovina. Concern is also expressed about the incident in late summer of 1994 when the State party refused to allow some 30,000 externally displaced persons, all Bosnian Muslims, from the Velika Kladusa region of Bihac (Bosnia and Herzegovina) to leave appalling camp conditions in UNPA North and the demilitarized zone and enter areas of Croatia under its control. It is, however, noted that the situation was especially complicated by, inter alia, the influence exerted by leaders of the so-called

"Autonomous Province of Western Bosnia", the rapidly changing war situation and the eventual return of most of the displaced people to Velika Kladusa.

170. It is noted that the administration of the criminal justice system fails adequately to address crimes of an ethnic nature. Thus there has been a failure to prosecute alleged perpetrators of crimes directed at ethnic Serbs and it is reliably reported that a number of Croatian Serbs have been unfairly prosecuted or excessively punished for alleged crimes against non-Serbs.

171. Attention is drawn to the extent of evictions carried out by State authorities against ethnic Serb residents of apartments formerly owned by the Yugoslav National Army. Particular concern is expressed regarding evictions which the Government declared to be legal in apparent defiance of decisions of the Constitutional Court. Inaction by the government authorities to prevent or reverse evictions of ethnic Serbs which it itself deems to be illegal is also noted.

172. Concern is expressed regarding the influence of the mass media in aggravating ethnic tension and the failure of the State to investigate and prosecute a number of incidents of promotion by elements of the print media of hatred directed against ethnic Serbs.

173. Note is taken of the provisions of the laws concerning naturalization and acquisition of citizenship and concern is expressed as to the great difficulties encountered in the process by many who are not of ethnic Croat origin.

174. Attention is drawn to the situation of the Roma community in Croatia and to a number of reports indicating that they are subject to discrimination and forms of harassment.

(e) Suggestions and recommendations

175. The Committee recommends that the process of democratic institution-building proceed with great urgency and that the provisional court of human rights speedily commence its activities. It also recommends that the State party ensure that laws and regulations concerning, inter alia, naturalization, acquisition of citizenship, determination of refugee status and tenure of rented accommodation be implemented in a transparent non-discriminatory manner in full conformity with the provisions of the Convention. It further recommends that any victims of discriminatory application of such rules and regulations in violation of the terms of the Convention receive redress to the extent that this is possible.

176. The Committee recommends that the State party ensure that it administers justice in a manner consistent with its obligations under the Convention and that it speedily prosecute all alleged offences which appear to be directed against persons because of their racial, ethnic or religious origins. It recommends to the State party that it identify any miscarriages of justice which may have occurred and been motivated by the ethnic origin of the defendants and that it redress any injustice done.

177. The Committee recommends that the State party consider making the declaration under article 14, paragraph 1, of the Convention.*

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* Adopted by vote of the Committee

178. The Committee recommends as a matter of urgency that the State party comply with article 4 of the Convention and prohibit and prosecute all incitement to ethnic hatred in the media and elsewhere.

Peru

179. The eighth, ninth, tenth and eleventh periodic reports of Peru, submitted in one document (CERD/C/225/Add.3), were considered by the Committee at its 1083rd and 1084th meetings, held on 7 and 8 March 1995 (see CERD/C/SR.1083-1084).

180. The reports were introduced by the representative of the State party, who indicated that the Government of Peru, democratically elected in 1990, had worked hard to rebuild the economy and combat terrorism and drug-trafficking. While the process of national peace-building was not yet complete, the Government had succeeded in disbanding many terrorist organizations, thanks to its - necessarily strict - anti-terrorist legislation, which was now being progressively relaxed. The international bodies concerned with human rights had acknowledged the sharp fall in the number of allegations of violation of human rights in Peru. The new Constitution had been adopted in 1993 and endorsed by the people in a referendum. The Constitution stated that all persons were equal before the law and expressly prohibited discrimination on the grounds of origin, race or language. The Government had drawn up a preliminary draft of a law which would cite acts of racial discrimination as aggravating factors in offences already described in the existing criminal law, thus reflecting the provisions of article 4 of the Convention.

181. The representative said that any discussion of racial problems in Peru must necessarily refer to the situation of the indigenous communities. Peru was the most ethnically varied country in South America, with no less than 14 different families of languages. Indigenous communities enjoyed a whole range of rights and prerogatives which protected their existence as legal entities and their autonomy in respect of organization, communal work and the free use of their lands. The Constitution delegated many legal functions to the traditional indigenous authorities in accordance with customary law, provided that the fundamental rights of the individual were not infringed. Other legislation and development projects dealing with indigenous communities were mentioned by the representative. The Government, he said, had also given a high priority to education.

182. Members of the Committee welcomed the resumed dialogue with the reporting State and noted with satisfaction that the Government of Peru had ratified ILO Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries.

183. In connection with article 2 of the Convention, members of the Committee noted that the report failed to give a clear account of Peru's "national integration" policy. It made no mention of concrete measures, as required by the Convention, and was confined to general statements. Statistics showed that public resources were concentrated in Lima, where the white population was mostly located, whereas the regions and departments with the largest indigenous populations were neglected, although the people were the poorest, the least educated and the least developed. It was felt that, although economic and social policies in general might be successful in some ways, they often marginalized the rural poor, who in many cases were descendants of indigenous peoples, and thus had the effect of failing to guarantee their social and economic rights and increasing inequalities. Members of the Committee wished to

know to what extent there were policy consultations between the Government and non-governmental organizations, and whether there had been responses to their views on the question of national integration. Regarding the status of the Black minority of Peru, members requested information as to what was done to redress the situation of pervasive discrimination, social prejudice and persistent poverty.

184. Members of the Committee observed that very little information had been provided concerning the implementation of article 4 of the Convention. In particular, it was not clear whether article 371 of the Peruvian Penal Code met the standards of article 4 of the Convention.

185. With regard to the implementation of article 5 of the Convention, more information was needed on the extent to which the measures described in the report were effective. In particular, regret was expressed at the lack of any information in the report on the protection from racial discrimination of the right to housing, provided for under article 5 (e) (iii) of the Convention. Referring to the right to equal participation in cultural activities, established in article 5 (e) (vi), and in particular to the mass media, it was asked whether there was any consultation with multiracial, integrationist associations to ascertain their views concerning representation in the media. Referring to the statement that Quechua, Aymara and the other aboriginal languages had official status under the law, members of the Committee asked whether interpretation was, as required, provided in the courts, how many people spoke those languages and whether translations into those languages had been made of various legislative documents, notably those relating to labour law and the rules governing detention, release from detention and sentencing. Concerning possible violations of the rights enumerated in article 5 of the Convention and the right of individual recourse, consequent to Peru's declaration under article 14, to the help of international bodies such as the Committee when domestic remedies had been exhausted, members of the Committee asked whether people in general were in fact aware of their rights, of the constitutional guarantees that protected them, and of the remedies available to them if they suffered discrimination. Concerning the ancestral peasant and indigenous communities' right of ownership to their lands, mentioned in the report, it was asked to what extent those communities were actual participants in or beneficiaries of programmes for the exploitation and development of natural resources in those lands. Further information was also requested on the customary courts authorized by the Constitution and on the relationship between those special courts and the regular justice system. Members of the Committee asked how the New Criminal Code was organized, and what arrangements there were for persons who, because of their ethnic background, were unable to understand the regular legal procedures.

186. As to article 6 of the Convention, members of the Committee recognized that many remedies were available, but they wished to know to what extent they were effectively used and how expensive it was for a person who had suffered discrimination to take advantage of those remedies. Commending Peru's acceptance of the individual complaints procedure under article 14, they asked whether some research could be carried out in order to ascertain the extent to which people were aware of the recourse procedures available to them. More information was also needed on the working of the court system and its expected restructuring. Members of the Committee noted that it would have been appreciated if some significant examples of complaints, prosecution and convictions for acts of racial discrimination had been given. It was emphasized that actual complaints were a measure of public confidence in the legal system and that actual prosecutions and sentences were the yardstick whereby the

effective application of the Convention could be gauged. Where racial discrimination was concerned, evidence of judicial intervention, including repressive measures, had a symbolic and even pedagogic function in society at large. On the contrary, there was a substantial body of evidence from sources, including the Human Rights Committee, that much violence affecting peasant and indigenous groups was being committed in Peru by the military, the paramilitary, the police and armed Government-controlled groups, in a persistent pattern of impunity.

187. Replying to the questions and comments of the Committee, the representative of the State party said that Peru's policy was one of integration, rather than of assimilation or destruction of values, and aimed to preserve the values and customs of local communities. That policy took due account of the benefits of modern life, while taking care not to destroy indigenous culture, but to maintain contacts between it and with the rest of the country. With regard to the ethnic composition of the population, he said that questions concerning ethnic or racial origin had not been included in the questionnaires used in the 1993 national census, since it was national policy not to emphasize racial differences. He also informed members of the Committee that he would let them have a copy of the official ethno-linguistic map of Peru, which had been drawn up recently by the Instituto Indigenista Peruano, and that the results of the national census would also be communicated to them immediately after the present session. As for the results of the other two major censuses, which had been respectively concerned with indigenous communities and the rural population, he said that the Government of Peru would transmit them to the Committee as soon as they were published.

188. In the area of education, the Government had launched an intercultural bilingual education programme (1995-2005) directed at indigenous communities throughout the country. Sixty bilingual teachers were being trained, and they in turn would train 2,400 other teachers.

189. With regard to customary law, there were good reasons for protecting it, since it was made up of usages having force of law which played an effective regulatory role within the various groups in which it had originated. On the other hand, the Penal Code took account of "errors of fact due to cultural conditioning" to allow judges to pass less severe sentences than would normally be incurred by individuals found guilty of particular offences who had acted in accordance with the principles of their own culture.

190. With regard to the issue of the political representation of indigenous people in the Parliament, he explained that it was neither required nor prohibited under the Constitution. Ethnic representation in the Parliament and in the Executive Branch took the most varied forms, as it did in the media, the press and radio and in all the country's activities.

191. With regard to the apparent conflict between the acknowledged property rights of peasant communities over their own land and the rights of the State, he said that article 69 of the Constitution, which stated that natural resources belonged to the State and was the basis for the national policy of maintaining biological diversity, was of a general nature. The autonomy of communities in respect of their organization and the use and free disposal of their land was subject to the general principles established by law.

192. Turning to the issue of bilingualism in the courts, he said that under the terms of the new Constitution all accused persons were entitled to the services of an interpreter.

193. With regard to the question of statistics on complaints of discrimination, he noted that such complaints had for the last two years been entered on a national register. Studies would be made of acts of racial discrimination and the relevant conclusions would be included in the next report.

Concluding observations

194. At its 1095th meeting, held on 15 March 1995, the Committee adopted the following concluding observations.

(a) Introduction

195. The Committee welcomes the submission by the State party of a detailed report, prepared in accordance with the Committee's revised guidelines for the preparation of reports, and the resumption of the dialogue with the Government of Peru nine years after the consideration by the Committee of the previous report. The presence of a high-level delegation which provided additional information on most of the points raised by members of the Committee enables the Committee to obtain a better understanding of the efforts against racial discrimination in Peru, thus providing the basis for a frank and fruitful dialogue between the delegation and the Committee.

(b) Positive aspects

196. Measures recently adopted by the Government to improve the human rights situation are welcomed, as is continuing attention to the needs of indigenous communities. Satisfaction is expressed at the recent ratification by the State party of ILO Convention No. 169 on Indigenous and Tribal Peoples in Independent Countries. The Committee welcomes the additional information provided in the oral introduction of the report. The Committee takes note and welcomes the offer made by the Minister of Justice to provide the Committee with additional information as soon as possible.

(c) Factors and difficulties affecting the implementation of the Convention

197. It is noted that, as a consequence of violence linked with terrorist groups' activities and drug-trafficking, the State party has serious difficulties in the implementation of some provisions of the Convention. Structural problems such as the economic consequences of foreign debt have to be acknowledged.

(d) Principal subjects of concern

198. It is regretted that the State party has failed, since the submission of its seventh periodic report, to comply with its reporting obligations, so it has not been possible for the Committee to monitor the effects of Peru's fight against racial discrimination. It is further regretted that the Government failed to provide the Committee in its written report with accurate demographic data on Peru and that it did not contain sufficient information on the factual situation prevailing in Peru as far as protection against racial discrimination is concerned.

199. Concern is expressed that the socio-economic conditions of certain ethnic groups in Peru, particularly of indigenous communities living in rural areas and of indigenous, as well as Peruvians of non-European origin in urban society, remain disadvantageous compared to those of the white population in the urban areas. It is further noted with concern that some effects of the economic and

social policy of the Government threaten the enjoyment of the social and economic rights of persons belonging to indigenous communities. Furthermore, the report fails to give a clear picture of the substance and implementation of the "national integration policy" or of the way legal provisions protecting "cultural identity" are implemented.

200. It is noted that articles 129 and 317 of the Criminal Code do not fully meet the requirements of article 4 of the Convention. Concern is expressed about the lack of information contained in the State party's report on results of measures adopted to give effect to articles 4, 5 and 6 of the Convention.

201. As regards implementation of article 6, concern is expressed at the number of allegations of excessive use of violence committed in the past towards the rural population (most of whom are of indigenous descent) by the army and various armed groups as a reaction to terrorism. The role of military courts in this respect needs further explanation and assessment. The Committee is concerned whether impunity is not given too much weight in respect of the prosecution of human rights violations by military and paramilitary groups. Concern is also expressed regarding the adequacy of publicity given to the right of individuals claiming to be victims of racial discrimination to appeal to the Committee under article 14 of the Convention.

(e) Suggestions and recommendations

202. The Committee recommends that further efforts be undertaken by the Government to put into practice the provisions of the Convention, as well as the legislative, judicial and administrative measures referred to in the State party's report. The Committee also recommends that effective monitoring mechanisms be introduced to assess progress achieved in the protection of the rights of indigenous communities.

203. The Committee recommends that special efforts be made within the armed forces to terminate any unlawful violence towards civilians, including persons belonging to indigenous communities, and to secure that perpetrators of human rights violations are brought to justice.

204. The Committee requests the Government of Peru to provide, in its next report due on 30 October 1994, detailed information on the actual implementation of articles 4, 5 and 6 of the Convention.

Bosnia and Herzegovina

205. The Committee considered the report of the Republic of Bosnia and Herzegovina (CERD/C/247/Add.1) at its 1082nd and 1092nd meetings, held on 7 and 14 March 1995 (see CERD/C/SR.1082 and 1092).

206. At its 1082nd meeting the Committee proceeded in the absence of a representative of the State party. Members drew attention to aspects of the situation in Bosnia and Herzegovina, emphasizing the effects of the ongoing conflict and the activities of international bodies.

207. Some members called for the lifting of the international arms embargo on the export of arms to the State party, withdrawal of the United Nations Protection Force and more forceful action by the Security Council. Such suggestions elicited debate.

208. A delegation of the State party attended the 1092nd meeting of the Committee. The State representative expressed regret for the late submission of the report and the inability, by reason of war conditions, of representatives to attend earlier meetings in which his country was discussed.

209. The representative drew attention to the establishment of the Federation of Bosnia and Herzegovina and to the very strong human rights provisions contained therein in its Constitution, including the provision incorporating the Convention and other international instruments into the law of the Federation. The representative also explained the envisioned roles for the ombudsmen and the Human Rights Court. Support was expressed for the rule of law and for international procedures such as the International Tribunal for the prosecution of war crimes in the former Yugoslavia.

210. The representative described the terrible situation afflicting the country owing to the aggression of secessionist and external forces, whereby the Government was not in control of all its territory and was unable to halt massive violations of human rights in these areas.

211. Members of the Committee expressed appreciation for the presence of a high-level delegation from the State party and for the information provided both orally and in the report. Understanding was expressed for the great difficulties which the war and Sarajevo siege placed on the State party in meeting its reporting obligations under the Convention.

212. A number of members requested further information on the legal structures in the Constitutions of the Republic and the Federation which serve to protect and vindicate human rights, such as the judicial system, including the proposed Human Rights Court, and procedures for prosecution of crimes against humanity whether domestically or before the International Tribunal. The representative was also asked to indicate the extent to which ethnically motivated and other such crimes were in the course of being investigated and prosecuted.

213. Concerning the ongoing war, members asked for information as to the Government's understanding of the long-term political ambitions of the separatists and for its view on the effectiveness and utility of the United Nations Protection Force. A member also asked for the views of the representative as to whether the conflict was essentially ethnically or politically based.

214. Members asked whether Bosnia and Herzegovina remained a pluralist State which rejected ethnic discrimination or preferment. One member asked whether non-Muslims were treated equally to Muslims. Further information was requested on the influence of the mass media and whether they had contributed to the promotion of ethnic hatred.

215. In replying to a range of questions posed, the representative of the State party reiterated his country's commitment to the rule of law and to the importance of the principles of human rights. He stressed the culpability of aggressors who were attempting to dismember his country. He and other members of the delegation presented their analysis of attempts to create a "Greater Serbia".

216. The important role played by the United Nations Protection Force was acknowledged, though representatives said that it was inadequate to meet the needs which should be addressed.

Concluding observations

217. At its 1097th meeting, held on 16 March 1995, the Committee adopted the following concluding observations.

(a) Introduction

218. The Committee on the Elimination of Racial Discrimination acknowledges the report received from the Government of the Republic of Bosnia and Herzegovina and is profoundly distressed about the violations of human rights and international humanitarian law reported therein. The Committee appreciates the presence of the representatives of the Government of the Republic of Bosnia and Herzegovina and takes note with appreciation of the information provided orally.

(b) Principal subjects of concern

219. The Committee expresses its grave concern and condemns the massive, gross and systematic human rights violations occurring in the territory of Bosnia and Herzegovina, most of which are committed in connection with the systematic policy of "ethnic cleansing" and genocidal acts in the areas under the control of the self-proclaimed Bosnian Serb authorities. All these practices, which are still occurring, constitute a grave violation of all the basic principles underlying the International Convention on the Elimination of All Forms of Racial Discrimination. The Committee urges the immediate reversal of ethnic cleansing which must begin with the voluntary return of displaced people.

220. The Committee deeply regrets that no effective protection was afforded to the population even in the Security Council-declared "safe areas".

221. It is deeply deplored that due to the control of parts of its territory by secessionist forces with support from outside, the State party is not in a position to exercise control over the whole of its territory and consequently cannot ensure the application of the provisions of the Convention throughout the State. It is noted that the secessionist forces are mainly responsible for systematic violations of human rights in areas under their de facto control, including rights ensured by the Convention, the principal victims of which are those belonging to the Muslim community. The Committee, being aware of the inherent right to self-defence of all States, as recognized in Article 51 of the Charter of the United Nations, notes that the Government has been prevented from protecting human rights throughout its territory.

222. The Committee is deeply concerned about the threat to the territorial integrity of the Republic of Bosnia and Herzegovina posed by the design for a "Greater Serbia".

(c) Suggestions and recommendations

223. The Committee reaffirms that persons responsible for massive, gross and systematic human rights violations and also crimes against international humanitarian law should be held responsible and prosecuted on the national or the international level.

224. While mindful of the complexities of the resort to enforcement action, as explained by the Secretary-General in the supplement to an Agenda for Peace (A/50/60-S/1995/1), the Committee expresses the view that the continuing and persistent violations of basic principles of international law and international obligations deriving therefrom, including basic principles underlying the

International Convention on the Elimination of All Forms of Racial Discrimination, calls for the application of enforcement measures by the Security Council in connection with the situation in Bosnia and Herzegovina.

225. The Committee repeats its offer of technical assistance to the State party in the form of a mission of one or more of its members for the purpose of promoting the elimination of all forms of racial discrimination.

Federal Republic of Yugoslavia (Serbia and Montenegro)

226. The Committee, in concluding observations adopted at the forty-third session, 6/ requested additional information from the Federal Republic of Yugoslavia (Serbia and Montenegro) concerning measures taken to give effect to the provisions of the Convention. The Committee considered the additional information, contained in document CERD/C/248/Add.1, at its 1094th meeting, held on 15 March 1995 (see CERD/C/SR.1094).

227. Consideration of the additional information proceeded in the absence of a representative of the State party. In that regard, the Committee had before it copies of an exchange of correspondence between the Ambassador of the Federal Republic of Yugoslavia and the Chairman of the Committee. The text of those communications reads as follows:

Letter dated 15 February 1995 from the Chargé d'affaires a.i. of the Permanent Mission of the Federal Republic of Yugoslavia to the United Nations Office at Geneva to the Chairman of the Committee on the Elimination of Racial Discrimination

> With reference to the United Nations Secretary-General's note No. G/SO 237/2 (2) of 26 October 1994, and the invitation extended to the Government of the Federal Republic of Yugoslavia on 4 November 1994, for sending its representatives to a meeting of the Committee on the Elimination of Racial Discrimination, may I transmit herewith the following position of the Government of the Federal Republic of Yugoslavia:
>
> The Government of the Federal Republic of Yugoslavia pointed out on several occasions its position that, being the continuation of the international, legal and political personality of the former Socialist Federal Republic of Yugoslavia, it would strictly abide by all the commitments the Socialist Federal Republic of Yugoslavia had undertaken by acceding to international-legal instruments, which includes the obligations deriving from its membership in the International Convention on the Elimination of All Forms of Racial Discrimination.
>
> With regard to the fact that the delegation of the Federal Republic of Yugoslavia was unlawfully denied the right to participate in the work of the latest meeting of the States parties to the International Convention on the Elimination of All Forms of Racial Discrimination, whereby the basic rights of the Federal Republic of Yugoslavia deriving from its membership in the Convention have been violated, the Government of the Federal Republic of Yugoslavia is of the view that the position of inequality, in which it is being placed by this act, makes its normal and usual cooperation with the Committee on the Elimination of Racial Discrimination impossible.

Taking into account that, regrettably, in the meantime after our latest communication (No. 56/1 of 26 January 1995), nothing has been changed in the position held towards the Federal Republic of Yugoslavia, that is, it is not yet considered as a full member to the Convention, the Government of the Federal Republic of Yugoslavia is keeping its position and it will not participate at the above-mentioned Committee meeting.

The Government of the Federal Republic of Yugoslavia is expecting that the Federal Republic of Yugoslavia will be allowed to participate on the footing of equality at the next Conference of the States parties to the International Convention on the Elimination of All Forms of Racial Discrimination and that usual cooperation with the Committee on the Elimination of Racial Discrimination will be resumed afterwards.

The Government of the Federal Republic of Yugoslavia wishes to reiterate once again its sincere interest in the equitable dialogue with the Committee on the Elimination of Racial Discrimination, which is of mutual interest.

(Signed) Vladimir Pavicevic
Ambassador

Letter dated 6 March 1995 from the Chairman of the Committee on the Elimination of Racial Discrimination to the Chargé d'affaires a.i. of the Permanent Mission of the Federal Republic of Yugoslavia to the United Nations Office at Geneva

I refer to your letter of 15 February 1995 which transmits the position of your Government on the invitation extended to it to participate in the consideration by the Committee on the Elimination of Racial Discrimination of the additional information supplied by your Government pursuant to a request of the Committee.

May I convey to you the great regret of the Committee concerning the decision of your Government not to send a delegation to meet with it during its current session. While the absence of a delegation does not preclude consideration of the information which has been supplied, it does, however, greatly hinder the process of dialogue. The Committee considers that the continuation of the dialogue with your Government will contribute to the implementation of the Convention.

Note has been taken of the reasons presented by your Government as underlying its position. In this regard the Committee would like to restate its view that it has always considered that the Federal Republic of Yugoslavia (Serbia and Montenegro) is duty-bound as a State party to the International Convention on the Elimination of All Forms of Racial Discrimination and that the Committee, in its actions, will continue to proceed on the basis of this understanding.

It is the hope of the Committee that your Government will reconsider its decision in sufficient time to allow for a dialogue to occur during the present session.

(Signed) Ivan Garvalov

228. Members welcomed the submission of the additional information while deploring the unwillingness of the State party to send a representative to participate in the Committee's deliberations. Members also drew attention to and stressed the importance of the findings of fact contained in the reports of the Special Rapporteur of the Commission on Human Rights on the situation of human rights in the territory of the former Yugoslavia, Mr. T. Mazowiecki. A number of members condemned the apparent unwillingness of the State party to take seriously its international obligations concerning human rights or to cooperate with various international procedures which are intended to promote respect for the rights of all peoples and especially vulnerable minority groups.

229. With regard to articles 2 and 5 of the Convention attention was drawn to reports of patterns of discrimination perpetrated by the State party against a number of minority groups, including people of Albanian origin in the Kosovo region, people of the Muslim faith in Sandjak and those of Bulgarian origin in certain areas of Serbia. Among the discriminatory practices cited were police harassment, deprivation of education rights, mass dismissals from employment and restrictions on freedom of expression. It was also noted that the Government persisted in refusing to assist United Nations initiatives to trace disappeared persons or to cooperate with the International Tribunal since 1991.

230. The role of the communications media in promoting ethnic and religious hatred was stressed by members and attention was drawn in that regard to the findings of the Special Rapporteur, which clearly indicate systematic and grave violations of article 4 of the Convention.

231. Members expressed concern about apparent violations of article 6 arising from reports that members of minority groups were unable to obtain adequate redress for violations of their human rights perpetrated by government authorities or by private citizens in circumstances where the government authorities failed to take preventive action.

232. Members referred to the good offices mission of the Committee which had visited Kosovo in 1993 and some expressed the view that a further mission might serve to promote respect for the Convention in that region. In general members indicated their wish to give the fullest possible appropriate support to the Albanian minority in that region.

Concluding observations

233. At its 1097th meeting, held on 16 March 1995, the Committee adopted the following concluding observations.

(a) Introduction

234. The submission of a detailed document containing the additional information requested from the State party is welcomed. However, the Committee deplores the unwillingness of the State party to send a representative to participate in the consideration by the Committee of the information before it. The Committee notes the disparity between the intentions stated by the State party in its additional information concerning cooperation with the Committee and its unwillingness to participate at the meeting.

235. The important role played by the Special Rapporteur of the Commission for Human Rights for the former Yugoslavia is acknowledged and his findings of fact are endorsed.

(b) Factors and difficulties in implementing the Convention

236. It is recognized that the State party is experiencing considerable economic difficulties which have a negative impact on the enjoyment of human rights including those protected by the Convention. It is also acknowledged that the country faces severe challenges in meeting the needs of the large number of refugees within its territory.

(c) Principal subjects of concern

237. Great concern is expressed regarding the situation of the ethnic Albanian population of Kosovo. Reports continue to be received of campaigns of discrimination, harassment and, at times, terrorization, directed against them by State authorities. Dismissals from jobs in the public sector, principally from the police and education services, continue. Numerous reports have been received of physical attacks and robbery either committed by persons in the service of the State or inadequately investigated by the police. It can be concluded that the ethnic Albanians of Kosovo continue to be deprived of effective enjoyment of the most basic human rights provided in the Convention.

238. Concern is expressed regarding ethnic discrimination against other groups including the Muslim community of Sandjak and the Bulgarian community in Serbia. Note is taken of recent acts of discrimination perpetrated against these groups and of the failure of the State party to bring such actions to an end or to have them investigated and prosecuted.

239. Note is taken with profound concern of the large part which the media continue to play in the propagation of racial and ethnic hatred. Given the very tight State control over the media this propagation of hatred may be attributed to the State. It is further noted that the State party fails to take adequate action to either prosecute perpetrators of such acts or to attempt to redress injustices. It also fails to take action to counter the propagation of prejudice against non-Serbians through education of the population in tolerance.

240. The failure of the State party to cooperate with the special process on disappearances of the Commission on Human Rights is deplored. It is noted that without this cooperation no progress can be made in establishing the fate of large numbers of Croats, Bosnian Muslims and others who have disappeared.

241. The unwillingness of the State party to recognize the jurisdiction of the International Tribunal for the former Yugoslavia is also deplored and extreme concern is expressed with regard to the apparent policy of the Government to purport to bestow impunity on perpetrators of fundamental violations of international human rights and humanitarian law.

(d) Suggestions and recommendations

242. The Committee draws attention to the letter dated 6 March 1995 from its Chairman to the State party and reiterates its contents. The Committee will continue to consider the Federal Republic of Yugoslavia (Serbia and Montenegro) to be bound by the terms of the Convention and looks forward to an early resumption of contact with the State party including its good-offices mission to Kosovo.

243. The Committee calls on the State party to cease immediately all policies and practices which violate rights under the Convention. It insists that victims of discrimination, including ethnic Albanians, Muslims and ethnic

Bulgarians, receive redress and reparation in accordance with article 6 of the Convention.

244. The Committee recommends the immediate drafting and implementation of legislation with a view towards the outlawing of every manifestation of racial discrimination and the full implementation of the Convention. Particular attention should be paid to the legal regulation of matters such as the media and freedom of expression, employment and trade unions, the education system, and the health-care system. The Committee places itself at the disposal of the State party to make available to it any technical assistance it may require to carry out such legislative programmes.

245. The Committee insists that all perpetrators of violations of the Convention be brought to justice. It further calls on the State party to cooperate fully with the International Tribunal for the former Yugoslavia.

246. The Committee urgently suggests that the State party reconsider its failure to cooperate with the Special Rapporteur of the Commission on Human Rights and the special process on disappearances. It notes the important role played by both these mechanisms in promoting compliance with the terms of the Convention.

Romania

247. The ninth, tenth and eleventh periodic reports of Romania, submitted in one document (CERD/C/210/Add.4), were considered by the Committee at its 1090th and 1091st meetings, held on 13 March 1995 (see CERD/C/SR.1090-1091).

248. The reports were presented by representatives of the State party, who emphasized the importance attached to the Convention by the Government of Romania. They explained that the Constitution calls for the creation of a people's advocate, who will be responsible also for the protection of the rights of persons belonging to minorities.

249. Regarding the diffusion of messages promoting discrimination, the representatives explained that Act 41 of 17 June 1994, which governs the Romanian Society for Radiodiffusion and the Romanian Society of Television, prohibits the use of radio and television to, inter alia, defame the nation, incite wars of aggression or promote racial, class-based or religious hatred or discrimination. They maintained that the conflicts in Romania were inter-community rather than ethnic in character.

250. Members of the Committee expressed appreciation for the high level of representation and for the quality of the report, which adhered to its guidelines. They underscored the importance of the many changes that had taken place in the State party in recent years, particularly that it had become a democratic nation that guaranteed its minorities the right to conserve, develop and express their ethnic, cultural, linguistic and religious identities. It was noted that the Government attached primary importance to its obligations under the international human rights treaties to which it was a State party, including the International Convention on the Elimination of All Forms of Racial Discrimination.

251. Members also noted that the Gypsy and Hungarian minorities were subject to serious de facto discrimination. They asked what were the results of the inquiries into the events in Tîrgu-Mureş in March 1990 between the Romanians and Hungarians, which had not been completed at the time of the drafting of the

report. They asked whether the persons arrested and prosecuted in connection with the incidents were mostly Gypsy or Hungarian.

252. Members welcomed the participation of minorities in the parliamentary elections of September 1992 and asked what proportion of the Parliament was constituted by the 39 elected deputies from the Hungarian minority organization.

253. Members further took note of the Government's own acknowledgement in the reports that the situation in certain regions was not satisfactory, particularly with respect to small minorities. A number of members requested clarification as to the difference between "ethnic" and "inter-community" tensions. Members wished to know what other concrete measures were being taken by the Government to effectively prohibit incitement of racial discrimination and hatred. They further expressed regret at the lack of information on the complaints registered and prosecutions pursued due to acts of racism and requested detailed information on this matter in the next periodic report.

254. Members asked whether the Government was considering making the declaration under article 14 of the Convention, according to which individuals could present communications regarding human rights violations before the Committee, or withdrawing its reservations to articles 17, 18 and 22. Members inquired whether the Government was planning to adopt a law on minorities.

255. Members also inquired about a reported agreement between the Governments of Germany and Romania whereby groups of Gypsies would be transferred from the former to the latter nation. They asked what were the specific provisions of the agreement and whether it was true that Romania was accepting money in return for accepting the Gypsies.

256. The representative of Romania thanked the members of the Committee for their interest and understanding of the situation in Romania and stressed that the views of the Committee were highly valued in Romania for shedding new perspectives on the domestic situation. He questioned whether the expression "multiracial" was apposite as a description of Romania since over 89 per cent of the population was Romanian; the second largest group, the Hungarians, accounted for a further 7 per cent. To call the country "multiracial" was to question the concept of Romania as a single, unitary nation. In response to a question about the positions taken by certain Romanian political parties, it was explained that the Hungarian Democratic Union of Romania had opposed the 1991 Constitution because it disputed the declaration contained therein that Romania was a national State which was unitary and indivisible. In early 1995, the Hungarian Democratic Union of Romania called for territorial autonomy on an ethnic basis in certain areas. There were a number of other parties, however, that did not demand territorial autonomy but rather were devoted to the promotion of economic development and the protection of human rights and opposed racist, anti-Romanian, anti-Semitic, Fascist and neo-Nazi views.

257. The representatives acknowledged that confusion had been created by the preparation of a new Penal Code. The Penal Code currently in force dated from 1968; its anti-democratic provisions were to be corrected. The provisions of international treaties were incorporated into Romanian law; they ranked below the Constitution but took precedence over domestic law. For most purposes, aliens and stateless residents enjoyed the same rights as Romanians, except for certain political and property ownership rights.

258. On the agreement between Romania and Germany, the representatives acknowledged that an agreement had been made between the two countries. He

stated, however, that it involved the repatriation of undocumented persons living in each party and was not specifically targeted at any ethnic group. The transfer of DM 31 million called for in the agreement was to facilitate the professional and social reintegration of persons repatriated to Romania under the agreement.

259. The representatives also discussed the establishment in April 1993 of the Council for National Minorities, consisting of representatives of all national minorities and representatives of 12 government ministries. Each minority had the right to vote and the right to veto any Council action contrary to its interests, while the representatives of the Government had one vote each and could only veto decisions contrary to the law. On the possibility of adopting a law on national minorities, the representatives explained that a bill proposed by the Hungarian minority was before the Parliament and that a national minorities bill was under consideration by the Government. The representatives explained that the Constitution guaranteed the right of national minorities to be represented in Parliament and locally, and mentioned that many actually have been elected at both levels. Members of national minority groups also served in the government administration.

260. Regarding the possibility of discrimination in employment, the representatives stated that such discrimination was prohibited in the Constitution, in the law on individual labour contracts and in ILO Convention No. 100 (Equal Remuneration Convention), to which Romania was a State party. While most unemployed persons were Romanian nationals in areas predominantly Romanian, the complete eradication of discriminatory treatment in employment depended on the resolution of social, economic and political problems. The representatives assured the Committee that the issue of employment would be dealt with more thoroughly in the next report.

261. Members of the Committee, while expressing deep appreciation for the detailed answers provided by the representatives of the Government, also expressed regret that the representatives had not addressed the question posed by several members as to what measures were being taken by the Government to end incitement of racial discrimination and hatred. It was unclear whether legislation in fulfilment of obligations under article 4 was effectively implemented.

Concluding observations

(a) Introduction

262. At its 1096th meeting, held on 16 March 1995, the Committee adopted the following concluding observations.

263. The Committee welcomes the report of the State party, which was drafted in general accordance with the Committee's guidelines for the presentation of State party reports, and the additional material and oral information provided by the delegation.

264. The Committee expresses regret, however, that some additional answers provided did not fully address many of the questions posed by the Committee during the consideration of the report. In particular, the information given only orally on the agreement between Romania and Germany on the transfer of Sinti and Roma is insufficient. In this regard, the Committee invites the Government to submit in its next report information on the points raised in the present concluding observations and on any remaining questions posed during the

consideration of the present report. Given the short time remaining until the next report is due in October 1995, the Committee considers that that report should be a brief but complete update of the situation surrounding the rights protected in the Convention and that the following report, to be submitted in October 1997, should comprehensively address the situation regarding all of the articles contained therein.

265. The Committee expresses appreciation for the invitation extended by the delegation to visit Romania and to undertake direct consultations on the human rights situation with the competent authorities.

(b) Factors and difficulties impeding the application of the Convention

266. With Romania's history of authoritarian rule, which has severely impeded the enjoyment of many human rights in the State party, it is understood that the establishment and practical application of a new democratic and non-discriminatory political, economic and social framework is a difficult and time-consuming process.

(c) Positive aspects

267. Romania has also made progress in dismantling or revising the legal framework established during the period of authoritarian rule, particularly the Penal Code; it encourages democracy and openness in Romanian society and brings the legal codes closer in line with international human rights instruments, including the International Convention on the Elimination of All Forms of Racial Discrimination. The establishment of national human rights institutions is also noted, including the Council for National Minorities, the Centre for European Studies of Ethnic Problems, the Romanian Human Rights Institute, and the office of an Ombudsman to be exclusively concerned with the defence of human rights and freedoms. It is noted that these actions conform with General Recommendation XVII on the establishment of national human rights institutions.

268. Regarding the Government's new policy directions regarding minorities, note is taken of the Government's intention to preserve the ethnic, linguistic, cultural and religious identity of minorities and to protect them against attempts at forced assimilation, exclusion or segregation, as expressed in the Declaration on National Minorities of 20 November 1991. The increasing political participation of minority groups in Romania, both at the national and local levels, is noted.

269. Satisfaction is expressed with the Government's efforts to raise awareness of international human rights standards through civic instruction in the schools and through human rights training programmes initiated in cooperation with international human rights organizations, including the United Nations Centre for Human Rights. The legal provisions that prohibit speech which encourages racism or incites violence are also believed to be constructive.

(d) Principal subjects of concern

270. Concern is expressed as to the continued prevalence of xenophobic attitudes and traditional prejudices in Romanian society against certain minorities, manifested in the appearance of extremist political parties and increasing acts of violence.

271. Concern is also expressed about the concept of the nation-State since it may result in weakening the policy of protecting minorities and could aggravate the relations between communities.

272. While it is noted that Romania's new legal framework prohibits manifestations of racism, including acts of violence, the propagation of racist speech, and discriminatory employment practices, the extent to which measures are being taken by the Government to translate the legal prohibition of such acts into effective prohibition is unclear. Once such acts occur, it is not evident what remedies are available to victims and whether and how it is ensured that the guilty parties are prosecuted in an adequate and timely manner. It is noted in this connection that with regard to the violence on 20 September 1993 which resulted in the death of three members of the Roma and the destruction of the homes of 170 others, victims have yet to receive compensation or have their homes reconstructed.

273. Concern is expressed at the continuing reports of racism among police forces, which have been said to occasionally use excessive force against members of certain groups or, alternatively, are said not to take action when acts of violence against certain groups are committed in their presence.

(e) Suggestions and recommendations

274. The Committee recommends that the Government include in its next report information regarding the legal force of the Convention in Romania, especially enforcement of article 4, whether it may be directly invoked by victims of racism, and whether any such cases have been tried before the courts (and if so, what was the outcome of those cases). If codification into Romanian law is required before the Convention may be directly invoked, information is requested regarding the status of codification of the Convention. Information on the legal force of the Declaration on National Minorities of 20 November 1991 is also requested.

275. The Committee recommends that further information on the Law on Minorities be provided in the next report. It should contain the legal definition of "minorities", information on each of the ethnic groups listed in the present report (para. 16), and whether any special programmes are being implemented or are envisioned to improve the situation of the minorities identified, particularly the most vulnerable groups. The Committee further recommends that the Government systematically collect data on foreigners residing in Romania and take steps to ensure that they are not subjected to harassment or other acts of racism and xenophobia.

276. The Committee invites the Government to provide in its next report information regarding the agreement signed with Germany on the repatriation of Sinti and Roma, specifically as to how many persons are affected, which ethnic groups they belong to, and what measures are being taken to facilitate their reintegration into the repatriated country.

277. The Committee recommends that the Government engage in a public campaign, conducted through the media, the schools and other means at the disposal of the Government, to familiarize the public with the Convention, to attempt to change traditional prejudices against minorities, and to convey messages of tolerance. In this regard, the Government should continue to provide instruction on international human rights standards and norms in the schools and organize periodic training programmes for persons engaged in the administration of justice, including judges, police officers and lawyers.

278. The Committee recommends that the Government review and improve the training of law enforcement officials in the light of the Committee's general recommendation XIII.

Guatemala

279. The second, third, fourth, fifth and sixth periodic reports of Guatemala, combined in a single document (CERD/C/256/Add.1), were considered by the Committee at its 1092nd and 1093rd meetings, on 14 March 1995 (see CERD/C/SR.1092-1093).

280. The reports were introduced by the representative of the State party who affirmed the importance accorded to the work of the Committee by his Government and the commitment of Guatemala to respect and promote the human rights of all its people. Introductory comments were also made emphasizing key moments in the development of the country and noting ongoing concerns with regard to Belize.

281. It was explained that the population of Guatemala is primarily made up of indigenous peoples and that some 23 languages and dialects are spoken. He emphasized that State policy stresses respect for the racial and cultural diversity of the people and described the functions of the newly established Fondo Nacional Indigena. Certain structural weaknesses restrict the Government's ability to adequately promote the well-being of its people in areas such as health and education. Particular problems are imposed by a history of political instability and ongoing armed conflict. Strenuous efforts are now being made to conclude peace settlements and among the accords which have been agreed are those according a mediation role to the Secretary-General of the United Nations and the establishment of the United Nations mission in Guatemala.

282. The representative stated that the Government's attempts to introduce economic reform have been hindered by the strategies of international financial institutions.

283. Members of the Committee welcomed measures taken with the aim of achieving a durable peace and ensuring the democratic process. They also noted that, in accordance with the Constitution, all human rights instruments ratified or acceded to by Guatemala, including the International Convention on the Elimination of All Forms of Racial Discrimination, have been given precedence over national legislation and can be directly invoked before the courts.

284. Concerning article 2 of the Convention members asked a number of questions concerning the extent to which the Government in its laws and policies actively combated racial discrimination, especially as directed against the majority indigenous peoples. They noted that central to such a policy would be efforts to alleviate the economic disadvantages of those people. Questions were also asked as to the effect of the armed combat on the struggle against racial discrimination. Some members of the Committee asked about the generalized use of forcible recruitment of indigenous persons for military service, and about serious violations against the indigenous population by the army, which included summary executions and other cruel and degrading treatment. In addition, some members asked about the situation of indigenous persons who were refugees who had returned, about communities which resisted and about "lost communities". Members inquired as to the role of the army in police work and the activities of civilian self-defence patrols (PAC). Members asked about the status of the new Penal Code and the extent of independence enjoyed by magistrates.

285. Members asked whether the Convention was at present citable in national courts or still awaited appropriate legislation. They also sought clarification of article 45 of the Constitution concerning criminal liability for human rights violations. Queries were expressed concerning the effectiveness of criminal legislation in combating racial discrimination.

286. Members indicated that Guatemalan law failed to comply with the terms of article 4 of the Convention through a failure to specifically address issues of racial discrimination.

287. With reference to article 5 members inquired as to the socio-economic status of indigenous peoples vis-à-vis other members of society. In the light of reports received by members it was also asked whether the rights of indigenous people to own property were adequately protected. Concerns were expressed about the difficulties experienced by indigenous peoples in obtaining justice before the courts and in fully participating in the public life of the country. Further information was requested concerning membership by indigenous peoples in development councils. Questions were also put concerning the enjoyment by indigenous peoples and certain ethnic groups of freedom of religion, access to education, freedom of expression in the electronic media, and the right to form trade unions.

288. With regard to article 6 of the Convention members asked for confirmation that the army had compensated farmers for damage done to crops during military activity. Information was also requested as to the number of specific cases of racial discrimination which had been brought before the courts and as to the effectiveness in such cases of remedies such as habeas corpus.

289. Pursuant to the terms of article 7 members inquired about the extent of human rights training provided for police and security officials. Details were also requested on the efforts made by the Government to promote widespread knowledge of the Convention.

290 Members suggested that Guatemala consider making the declaration under article 14 of the Convention and consider accepting the amendment to article 18, paragraph 6, of the Convention concerning the financing of the expenses of the members of the Committee.

291. In replying to questions of members, the representative of the State party acknowledged the inadequacies of the report and indicated that his Government would submit an extended report in time for consideration at the forty-seventh session of the Committee. It would also address outstanding matters in its next periodic report due in February 1996. To facilitate the preparation of these reports the representative extended an invitation on behalf of the Government for the country rapporteur of the Committee to visit Guatemala.

292. The representative clarified a number of ambiguities in the report and stated that information of an ethnic nature might be sought in future national censuses in order to assist the State in complying with its reporting obligations.

293. It was noted that a number of positive developments in the country had not been reflected in the report, such as laws to give effect to article 70 of the Constitution and the establishment of the Guatemalan Indigenous Development Fund.

294. The representative acknowledged that there had been problems with PACs but indicated that great efforts were being made to have them disarmed and transformed into peace and development committees. Improvements in the police force were noted as were presidential initiatives to turn the army into a volunteer force with adult soldiers only.

295. Governmental policies to facilitate the return of refugees and displaced people were described and the representative undertook to provide further information on such matters as the extent of compensation given to farmers whose crops had been destroyed by the army during military activity.

296. Reforms in the judicial system were noted and the representative indicated the priority given by the Government to ensuring the independence of the judiciary and the personal safety of judges and magistrates.

297. The representative also drew attention to policies for the alleviation of poverty and the provision of essential social services (housing, medical care, education, etc.) and indicated the high priority accorded these issues by the Government. He noted that the procedure for ratification of ILO Convention No. 169 was under way in the Guatemalan Congress.

Concluding observations

298. At its 1098th meeting, held on 17 March 1995, the Committee adopted the following concluding observations.

(a) Introduction

299. The Committee welcomes the resumption of the dialogue with the Government of Guatemala and expresses its appreciation to the State party for its detailed report and for having submitted a core document (HRI/CORE/1/Add.47). It notes with satisfaction that the oral information provided by the delegation in introducing the report and replying to questions raised during the dialogue enabled the Committee to obtain a clearer picture of the situation in the State party. Nevertheless, the Committee regrets that the report does not provide information on the implementation of the Convention, as requested in article 9, paragraph 1, of the Convention. In this connection, it takes note of the statement by the delegation indicating a willingness to pursue the dialogue with the Committee in the near future and provide it with further information on measures taken to implement the Convention.

(b) Positive factors

300. Measures taken with the aim of achieving a durable peace and ensuring the democratic process started in 1985 are welcomed. It is further noted that, in accordance with the Constitution, all human rights instruments ratified or acceded to by Guatemala, including the International Convention on the Elimination of All Forms of Racial Discrimination, have been given precedence over national legislation and can be invoked directly before the courts.

301. Steps taken by the military authorities to bring military personnel involved in crimes before the courts, and efforts to reduce the number of and review the need for PACs are acknowledged.

302. The creation of 3,000 teaching posts in 1994, including 800 in bilingual education, is also a welcome development.

(c) Factors and difficulties impeding the application of the Convention

303. It is noted with deep concern that because of the armed conflict there still exists in Guatemalan society a significant degree of militarization which contributes consequentially to the phenomenon whereby members of the armed forces have committed excesses against the civilian population in general and members of indigenous communities in particular.

(d) Principal subjects of concern

304. The statement in paragraph 87 of the report that no form of racial discrimination is practised against persons, groups of persons or institutions is not accepted. De facto racial discrimination persists in Guatemala against the indigenous communities representing the majority of the Guatemalan people. It is noted with concern that no legal protection is offered in practice against such discrimination.

305. Profound concern is expressed regarding widespread discrimination affecting the indigenous communities and excluding them from the enjoyment of their civil, political, economic, social and cultural rights. It is regretted that adequate measures have not been taken to implement the provisions of the Convention. It is particularly regretted that members of the indigenous communities, contrary to article 5 (c) of the Convention, are not in any position to participate equally in the conduct of public affairs at all levels.

306. It is regretted that national legislation does not meet the requirements of article 4 of the Convention calling for the adoption of specific penal legislation.

307. Concern is expressed at the numerous excesses by elements of the military and the PACs against indigenous peoples, including summary executions and other cruel, inhuman or degrading treatment, threats and forcible recruitment into the armed forces.

308. The failure to investigate these crimes and to prosecute the perpetrators is particularly deplored.

309. The lack of awareness of members of indigenous communities about recourse procedures, the shortage of practical facilities for them to use their own language in court procedures and the weaknesses of the judicial system are also regretted as is the resulting relative impunity for perpetrators of such violations.

310. Concern is also expressed that conditions of extreme poverty and social exclusion are endured, in particular by the indigenous Maya Quiche population. Such conditions adversely affect the enjoyment of the rights guaranteed under article 5 of the Convention such as the right to own property, the right to work, the right to form and join trade unions, and the right to housing, public health and education.

311. Particular concern is expressed that the rate of illiteracy is especially high among indigenous communities.

(e) Suggestions and recommendations

312. The Committee requests that the next report of the State party contain detailed information on the implementation of the provisions of the Convention.

313. The Committee also recommends that practical measures be taken by the Government to implement the Convention, in particular in respect of the members of indigenous communities. Every effort should be made to ensure that the members of indigenous communities can effectively enjoy their economic, social, cultural, civil and political rights in accordance with article 5 of the Convention.

314. The Committee emphasizes that the State party must comply with its obligations under article 4 of the Convention and necessary legislative measures should be taken in order to give effect to the provisions of that article.

315. The Committee recommends that more information be provided in the next periodic report on the implementation of the provisions of article 5 of the Convention. The State party is requested to provide detailed information on measures taken to ensure the political, social and economic integration of the indigenous communities, as well as their physical existence and cultural heritage; efforts to reduce the militarization of the society and the impact of the PACs; cases of complaints of racial discrimination brought before the courts, penalties imposed on perpetrators of such acts of racial discrimination and remedies and reparation made available to victims of racial discrimination.

316. The Committee calls upon the Government to review and improve the training of law enforcement officials in the light of the Committee's General Recommendation XIII.

317. The Committee recommends that the State party consider ratifying ILO Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries.

318. The Committee suggests that the State party consider making the declaration under article 14, paragraph 1, of the Convention, recognizing the competence of the Committee to receive and consider communications from individuals or groups of individuals within its jurisdiction claiming to be victims of a violation of any of the rights set forth in the Convention.

319. The Committee suggests that the State party ensure the dissemination of its periodic report, the summary records of the discussion and the concluding observations adopted thereon.

(f) Other measures

320. The Committee takes note with satisfaction of the proposal of the State party to submit additional information at the forty-seventh session in August 1995, and also of the decision to submit a new periodic report in February 1996, and expects that these proposals will be fulfilled. The Committee further takes note with appreciation of the official invitation to send one of its members to Guatemala with a view to assisting the State party in its implementation of the Convention.

Belarus

321. The eleventh, twelfth and thirteenth periodic reports of Belarus, submitted in one document (CERD/C/263/Add.4), were considered by the Committee at its 1101st and 1102nd meetings, on 1 August 1995 (see CERD/C/SR.1101-1102).

322. The report was introduced by the representative of the State party, who highlighted the principal points of the report, drawing the attention of the Committee to the new legislative acts adopted during the past few years with due regard paid to the provisions of the International Convention on the Elimination of All Forms of Racial Discrimination. Particular reference was made to the relevant parts of the Constitution, to the Act on National Minorities in the Republic of Belarus, the Bishkek Agreement, article 71 of the Criminal Code, article 6 (1) of the Code of Labour Laws, the Act on Trade Unions, the National Housing Programme and acts relating to the right to education, culture and access to information. The representative of the State party indicated that during the reporting period - from 1988 to 1 July 1995 - no criminal proceedings had been recorded regarding allegations of racial discrimination.

323. Members of the Committee welcomed the resumption of dialogue with the State party and observed that the country's transition to democracy and a multi-party system was proceeding without serious ethnic tension or strife of the kind that had developed in most other former republics of the Soviet Union, for which the country deserved credit. Having noted that political and economic transition inevitably entailed a certain incoherence in a country's internal situation and policies, they felt able to commend the report submitted by Belarus even though it was not fully in compliance with the Convention.

324. It was of particular concern to the members of the Committee that the report lacked information on the demographic composition of Belarusian society.

325. In relation to article 2 of the Convention, members indicated that although the report contained many references to various legislative acts, there was little information on the content of those acts and no information on the extent to which they had been implemented, especially as far as the Act on National Minorities in the Republic of Belarus was concerned. In addition, they noted that the report's coverage of the legal situation was far more detailed than the factual information provided on national or ethnic minorities.

326. The members of the Committee recommended that Belarus consider withdrawing its reservation to the Convention since this reflected the tensions of an earlier age.

327. With respect to article 4 of the Convention, members of the Committee indicated that legislation so far adopted, and in particular article 71 of the Criminal Code, appeared to be consistent with the provisions contained in subparagraph (a) of that article, but not with those contained in subparagraph (b). The report gave no indication of how or whether steps had been taken to prevent public authorities or institutions from promoting or inciting racial discrimination, or whether public officials received training to ensure that they did not encourage discrimination by word or deed.

328. In connection with article 5 of the Convention, members of the Committee, having noted that the report under consideration provided less information than the tenth periodic reports, wished to know whether national minorities were represented in the Supreme Council and local government and administration; whether it was possible to form political parties or other organizations in

Belarus on the basis of ethnicity; and, given the large number of minorities in Belarus, whether any action had been taken to encourage integrationist multiracial organizations and movements to bring the minorities together and make them feel they were all part of one people.

329. In connection with article 6 of the Convention, members of the Committee regretted the lack of sufficient information with respect to its implementation. They noted that no cases of criminal proceedings for offences under article 71 of the Criminal Code had been recorded so far. Members recalled in that connection that the Committee on earlier occasions had remarked that the absence of such cases might stem from a lack of information on the part of the population regarding their rights and the remedies open to them, or from insufficient attention by the judicial authorities to that type of offence.

330. In connection with article 7 of the Convention, members of the Committee welcomed the attention being given in schools to the purposes and principles of the Charter of the United Nations, the Universal Declaration of Human Rights and the International Convention on the Elimination of All Forms of Racial Discrimination. At the same time, they wished to have more information on measures taken by the Government to provide training for teachers, magistrates and police officers in order to sensitize them to the nature of racial discrimination.

331. With respect to article 8 of the Convention, members asked whether Belarus would consider ratifying the amendments to provisions on the financing of the Committee (art. 8, para. 6).

332. In relation to article 9 of the Convention, members of the Committee emphasized that compliance with its paragraph 1, regarding the regular submission of reports, was of the greatest importance.

333. In connection with article 14 of the Convention, members of the Committee, noting that Belarus was a State party to the Optional Protocol to the International Covenant on Civil and Political Rights, wished to know whether Belarus would consider making the declaration recognizing the competence of the Committee to receive and consider communications from individuals or groups of individuals claiming to be victims of a violation by the State party of any of the rights set forth in the Convention.

334. Replying to questions and comments by members of the Committee, the representative of the State party said that the situation covered by the report was constantly evolving, so that it was more concerned with general trends. Because of that difficult situation of transition, the requisite statistics were not available.

335. As to the demographic composition of the population, the representative said that according to the 1994 census, there were 10.4 million inhabitants. The ethnic groups were divided as follows: Belarusians, 78 per cent; Russians, 13 per cent; Poles, 4 per cent; Ukrainians, 3 per cent; Jews, 1 per cent; and other nationalities, 1 per cent.

336. The representative said that there were no political parties in Belarus founded on a purely national or ethnic basis.

337. With regard to the amendment to article 8, paragraph 6, of the Convention, the declaration provided for under article 14 of the Convention and the question of the reservation formulated by Belarus at the time of ratification, the

representative of the State party assured the Committee that he would transmit its recommendations to his Government.

338. In conclusion, the representative of the State party thanked the members of the Committee for their many observations during the course of the debate, which Belarus would find helpful in drafting its fourteenth periodic report. He also asked the Committee to send Belarus information on the political representation of national minorities in State decision-making bodies together with concrete recommendations on the matter, which the Government could then follow in revising its national legislation. The Committee's assistance had been sought for the drafting of the electoral law currently under preparation in Belarus.

Concluding observations

339. At its 1122nd meeting, on 15 August 1995, the Committee adopted the following concluding observations.

(a) Introduction

340. Appreciation is expressed to the State party for its readiness to continue the dialogue with the Committee. It is regretted, however, that the eleventh and twelfth periodic reports were not submitted on time.

341. At the same time it is observed that Belarus has undergone radical political, social and economic changes since the Committee's last consideration of the State party's report in 1989 and that the process of transition towards a multi-party democracy and a market economy is still under way in Belarus with all the difficulties that such a process may generate.

342. It is noted that the State party has not made the declaration provided for in article 14, and some members requested that the possibility of such a declaration be considered.

(b) Positive aspects

343. The legislative measures adopted by the Government of Belarus with a view to bringing national legislation into conformity with the Convention are welcomed. In that connection, note is taken of the Act of the Republic of Belarus "On the Constitutional Court of the Republic of Belarus" and the actual establishment of the Court; of the Act of the Republic of Belarus "On national minorities in the Republic of Belarus" designed to prevent and combat discrimination on grounds of nationality and incitement of enmity between different nationalities; of the law on culture of 1991; of the law on languages of Belarus of 1990; of the signature by Belarus of the Bishkek agreement on matters connected with the restoration of the rights of deported persons, national minorities and peoples; and of the forthcoming establishment of the Council on international relations.

(c) Principal subjects of concern

344. It is regretted that not enough information has been provided by the State party on legislative, administrative and other measures for the implementation of the Convention.

345. Concern is again expressed that the State party has not implemented the provisions contained in article 4 (b) of the Convention and has not provided information on the practical implementation of provisions of article 4 (c).

(d) Suggestions and recommendations

346. The Committee recommends that in its next periodic report the State party fully reports on judicial, administrative and other measures adopted to give effect to the Convention.

347. The Committee further strongly recommends that the State party comply fully with the obligations under article 4 of the Convention and that necessary legislative measures be taken in order to give full effect to the relevant provisions of that article.

348. The Committee requests the Government of Belarus to provide it, in its fourteenth report due in 1996, with information on the ethnic composition of Belarussian society and on the situation of different minorities in terms of their participation in public life and their access to education, culture and information in their mother tongue.

349. The Committee draws the State party's attention to the periodicity of reporting as established by the Convention and urges the State party to comply therewith.

350. The Committee recommends that the United Nations Centre for Human Rights, within the framework of its technical cooperation programmes, assist Belarus, as requested by the delegation of the State party, in its efforts to harmonize national legislation with the Convention.

351. The Committee recommends that the State party ratify the amendments to article 8, paragraph 6, of the Convention, adopted by the Fourteenth Meeting of States Parties.

352. The Committee recommends that the State party's fourteenth periodic report, due on 7 May 1996, be a brief updating report.

Mexico

353. The Committee considered the ninth and tenth periodic reports of Mexico, consolidated in one document (CERD/C/260/Add.1), at its 1104th and 1105th meetings, held on 2 and 3 August 1995 (see CERD/C/SR.1104-1105). Together with the ninth and tenth periodic reports, the Committee also examined the report containing additional information (CERD/C/286), requested by the Committee in its decision No. 2 (46) of 9 March 1995, in accordance with article 9, paragraph 1, of the Convention.

354. The reports were introduced by the representative of the State party, who reaffirmed that the phenomenon of racial discrimination did not exist in Mexico, although the most vulnerable groups in society, such as women, disabled persons, migrant workers and indigenous people, did suffer some forms of discrimination caused by socio-economic factors. Extreme poverty among the latter group was both a cause and a consequence of their economic, social and cultural marginalization and exposed them to discriminatory treatment in both rural and urban areas. It was difficult to quantify the indigenous population. Based on estimates made for strictly statistical purposes and the language criterion according to which indigenous persons are those speaking an indigenous language, there were 7 to 10 million indigenous people in Mexico. He acknowledged that the language criterion alone was inadequate and that the criterion of self-identification, for example, should be considered a fundamental criterion, in conformity with ILO Convention No. 169.

355. He went on to state that it was only since 1991 that Mexico, despite its age-old history as a State, had recognized itself legally as a multi-ethnic and multi-cultural nation. Until then, and since its accession to independence nearly two centuries previously, the indigenous populations had been regarded at best as peoples to be civilized and to be assimilated culturally. The meagre results of that policy of integrating the indigenous people implemented over several decades had brought it home to the Mexicans that it was a mistake to seek at all costs to build a homogeneous country and deny the deep-seated roots of the Mexican nation. Now that the cultural diversity of the Mexican population was recognized by the Constitution, whose article 4 had been amended to that effect, it was necessary to adjust the whole body of Mexican legislation in order to eradicate all discriminatory practices, particularly in the fields of access to natural resources, the administration of justice, the administrative organization of communities and education.

356. Introducing the additional report requested by the Committee at its forty-sixth session (decision No. 2 (46)) and dealing mainly with the conflict which had broken out in the State of Chiapas in 1994, he explained that the conflict was the painful expression of the despair caused by extreme poverty. He said that, right from the beginning of the conflict, the Federal Government had acknowledged the legitimacy of some of the reasons that had led members of the indigenous communities to rebel; those reasons stemmed from economic and social marginalization and had nothing to do with racism or racial discrimination. The Zapatista National Liberation Army (EZLN) itself had not reported any problems of racial discrimination within the meaning of the Convention. He then described the measures and programmes adopted by the Government for the State of Chiapas, amounting to some $129 million.

357. The members of the Committee thanked the State party for its detailed, frank reports and for submitting additional written information on the situation in the State of Chiapas.

358. Members of the Committee expressed their difference of opinion with the Government on the kind of discrimination suffered by many indigenous people in Mexico, pointing out that it did in fact fall within the scope of articles 2 and 5 of the Convention. The discriminatory nature of policies or practices that perpetuated the marginalization and impoverishment of certain ethnic groups was indeed a form of racial discrimination within the meaning of the Convention.

359. Committee members acknowledged that, by recognizing the specific rights of the indigenous communities, the amendment to article 4 of the Mexican Constitution marked an important step in the transition from a *mestizo* society to a multi-cultural nation. Without statutes and measures to implement that provision, however, the constitutional reform would be of little practical effect. Members of the Committee also noted that, in many instances, the oppression of the indigenous communities was due less to the absence of legal rules than to the fact that economic interest groups and local politicians pursued their abusive practices to the detriment of indigenous groups with impunity.

360. Members of the Committee noted with interest the steps taken by the Government to improve the economic and social conditions of the indigenous communities, particularly the programmes designed to overcome extreme poverty, such as the National Solidarity Programme and the National Programme for the Development of the Indigenous Peoples. The innovative character of certain approaches was commended. A most interesting new feature, for example, was the programme for the reform of the justice system which takes into account Indian

customs in court proceedings. It was felt that this would also improve mutual cultural recognition and consultation among all sectors of society. That programme was to be classified among the measures of positive discrimination provided for in article 1 of the Convention.

361. Committee members drew attention, however, to the lack of information in the report by the State party on the real impact of those programmes. They expressed their concern about allegations from reliable sources about their ineffectiveness and the corrupt practices of certain local officials or powerful landowners. In that connection, members of the Committee stressed the importance of selecting social indicators that would make it possible to decide which sectors merited a priority input of resources and to determine whether the programmes had the expected impact.

362. Referring to the various bodies set up at the federal level to promote and protect the rights of indigenous peoples, members of the Committee acknowledged that the measures taken by them were undeniably important, but wondered whether the fact that there were so many of them did not entail a risk of bureaucratization and duplication. It was essential to ensure smooth coordination between the various bodies. Committee members also wished to know whether members of the indigenous communities took part in the management of those institutions in positions of responsibility.

363. Members of the Committee raised a question that was of fundamental importance for the indigenous populations, that of land, which was crucial to their subsistence, but also to their identity. There was evidence that the administrative measures taken by the Mexican Government were insufficient to guarantee fair and equitable treatment of members of indigenous communities in the process of land distribution. For decades, landowners had been illegally dispossessing the indigenous peoples of their lands. The Indians had been gradually driven from the fertile lands along the Pacific coast towards the central highlands and finally to the rainforest in the east, which was ill-suited to agriculture. Members of the Committee noted that the Mexican Government had long been accused by human rights organizations of doing nothing to put an end to the land-related violence in rural areas, regarding it as inevitable. Committee members also observed that the indigenous communities in Mexico viewed the recent amendment to article 27 of the Constitution and the promulgation of the new agrarian law in 1992 as a further threat to their already fragile economic activities and to their identity. Moreover, the economic situation of the indigenous communities seemed to have deteriorated since Mexico's signing of the North American Free Trade Agreement (NAFTA). Members of the Committee requested more information on the practical effects of the 1992 constitutional reform and on the Government's response to EZLN demands with regard to land.

364. Turning to the question of the conflict in the State of Chiapas, members of the Committee, welcoming the Government's efforts to find a political rather than a military solution to the conflict, wished to know what measures had been taken to put an end to the activities of the paramilitary groups still present there, whether the detainees who had not yet been released had benefited from fair and equitable legal procedures and whether the civilians and the military personnel responsible for the disappearances, arbitrary executions and torture had been arrested and brought to justice.

365. On the subject of article 4 of the Convention, members of the Committee noted that there was a continuing misunderstanding between the Committee and the Mexican Government, which maintained that no specific legislation was needed to

implement that article because the question of the indigenous people was never seen in terms of racial discrimination. That position did not meet the requirements of the Committee, which considered that specific measures must be adopted, even when there was no evidence of racist phenomena in a country, if only to prevent racial or ethnic discrimination and for educational purposes.

366. With regard to article 5 of the Convention, members of the Committee noted that, as the Mexican Government itself acknowledged with great candour, the indigenous populations were still in fact subject to discrimination in many areas, such as education and training in general, the right to their own language and culture, health, access to a nutritious and balanced diet, access to land ownership, access to infrastructure like the road network and other means of communication and access to justice. Committee members again pointed to the inadequacy of the steps taken and the lack of clear information on their impact. They requested the State party to provide more details on the implementation of article 5 of the Convention in the next periodic report.

367. On the subject of article 6 of the Convention, it was noted that, although it appeared that the Convention could be invoked directly before the courts in a case of racial discrimination, nothing had been said about the kind of sentences that might be handed down by the judge in such a case.

368. The information provided on article 7 of the Convention was noted with great interest by the Committee, which considered that the prospects afforded by the steps already taken were most promising. It was felt that since Mexico's cultural heritage was unique it should be cultivated, developed and made widely known. Encouraging the Government to continue with the dissemination of the ancestral culture of the indigenous population, the Committee recommended that the State party should associate the indigenous communities of other countries with such events, as had already been done with Bolivia, in order to foster a sense of cultural solidarity.

369. Replying to Committee members' questions and comments, the representative of the State party explained that the amendment to article 27 of the Constitution had been justified by the fact that there was no longer enough land available for distribution and that the amendment had not affected the existing social guarantees in agrarian matters, including the ban on large estates.

370. The representative affirmed the Government's will to leave no violation committed during the events in the State of Chiapas unpunished and offered to inform the United Nations Centre for Human Rights of the proceedings of inquiries conducted and sentences handed down in that connection. He also specified that all the rebels detained had been released as of July 1994 and invited the members of the Committee to read the report of the International Committee of the Red Cross, which had been present in Chiapas during the 18 months following the outbreak of the conflict.

371. The representative also informed the Committee that one of the points on which agreement had been reached with the EZLN, the revision of the Penal Code, was in the process of being implemented.

372. Lastly, the representative assured the members of the Committee that the next periodic report of Mexico would contain more information on the implementation of article 5 of the Convention.

Concluding observations

373. At its 1124th meeting, held on 16 August 1995, the Committee adopted the following concluding observations.

(a) Introduction

374. The submission by the State party of a detailed and frank periodic report, prepared in accordance with the Committee's revised guidelines for the preparation of reports, and of additional written information on the situation prevailing in the State of Chiapas, requested by the Committee in its decision 2 (46) of 29 March 1995, is welcomed. Appreciation is also expressed for the supplementary information provided orally by the delegation of the State party.

375. It is noted that the State party has not made the declaration provided for in article 14 of the Convention, and some members requested that the possibility of such a declaration be considered.

(b) Positive aspects

376. The legislative and other measures adopted by the Government in favour of the indigenous population, in accordance with article 2 of the Convention, are welcomed. It is noted with satisfaction in particular that the amendment to article 4 of the Constitution in January 1992 represents a fundamental shift in the State party's policy towards indigenous peoples, since it states that the Mexican nation has a multicultural composition originally based on its indigenous peoples and recognizes, for the first time since Mexico's independence, special constitutional rights for the indigenous people living on its territory.

377. As regards the Chiapas conflict, it is noted with satisfaction that in January 1994, the Government decided to take steps to seek a political rather than a military solution, unilaterally declared a ceasefire, decreed a general amnesty and established the National Commission for Comprehensive Development and Social Justice for Indigenous Peoples.

378. The efforts made by the State party to set up a bilingual-bicultural education system in favour of the indigenous groups are welcomed.

379. The amendment of articles 18 to 22 of the Constitution intended to expand the constitutional rights of accused persons in criminal proceedings of indigenous origin, as well as the ongoing revision of the Penal and Criminal Procedure Codes, are also noted with satisfaction.

(c) Principal subjects of concern

380. The situation of extreme poverty and marginalization of the majority of the indigenous population in Mexico is a matter of concern. Such a situation has complex causes, some of them stemming from the impact of the encounter of civilizations, as well as the consequences of the recent internationalization of the economy for social policies in Mexico. It has been and still is the responsibility of the Government to improve the economic and social situation of the indigenous population of Mexico.

381. Concern is expressed at the lack of information in the State party's reports on the actual implementation of constitutional and legal measures, and

on the impact of the various policies and programmes adopted by Mexico in applying the provisions of the Convention.

382. Particular concern is expressed that the State party does not seem to perceive that pervasive discrimination being suffered by the 56 indigenous groups living in Mexico falls under the definition given to racial discrimination in article 1 of the Convention. The description of their plight merely as an unequal participation in social and economic development is inadequate.

383. Concern is also expressed that too little attention is given by the State party to the effects on the economic situation of the indigenous communities, of adherence to the North American Free Trade Agreement and of the related 1992 constitutional and legislative reform of the land ownership system.

384. While the achievements of the National Indigenous Institute are commended, note is taken of the insufficient coordination between the various institutes and commissions which are charged with protecting the rights of the indigenous communities in Mexico, as well as their bureaucratic functioning.

385. Concern is expressed that the State party still has not implemented the provisions in article 4 of the Convention.

386. Concern continues regarding the serious discrimination indigenous peoples have to face in respect of the enjoyment of their civil, political, economic, social and cultural rights. Particular concern is expressed at the inequitable treatment of indigenous people in the process of land distribution, including restitution, and at the violent and illegal resolution of many land disputes, at the amendment to article 27 of the Constitution, and at the lack of support given to the bilingual-bicultural education system.

(d) Suggestions and recommendations

387. It is not clear how the Convention is incorporated into the Federal and State legal systems nor whether the provisions of the Convention can be directly invoked before the courts.

388. The Committee recommends that the State party pursue its efforts to analyse the root causes of the socio-economic marginalization faced by the indigenous population of Mexico and continue its attempts to harmonize indigenous customs with the positive legal order.

389. The Committee draws the attention of the State party to the necessity of adopting indicators to evaluate the policies and programmes aimed at the protection and promotion of the rights of indigenous peoples.

390. The Committee recommends that the State party review the functioning of and the coordination between the various institutions in charge of the protection of indigenous people's rights.

391. The Committee reaffirms that the provisions of article 4, paragraphs (a) and (b), of the Convention are of a mandatory character as stated in general recommendation XV (32) of the Committee and recommends that the State party implement each of the obligations.

392. The Committee wishes the Government of Mexico to provide, in its next report, detailed information on the implementation of article 5 of the Convention.

393. The Committee strongly recommends that the State party find a fair and equitable solution for the distribution, including restitution, of lands. As far as land disputes are concerned, all necessary steps should be taken to ensure that the rule of law is applied without improper interference, in particular by powerful landowners.

394. The Committee strongly recommends that the State party make an increased effort in promoting affirmative measures in the field of education and training.

395. The Committee recommends that the Mexican Government ensure that violations of indigenous people's human rights be investigated, and that the victims receive compensation.

396. Welcome is expressed for the proposal, made orally by the delegation, of providing the United Nations Centre for Human Rights with regular and detailed information in that respect.

397. The Committee recommends that the State party ratify the amendments to article 8, paragraph 6, of the Convention, adopted by the Fourteenth Meeting of States Parties.

398. The Committee recommends that the State party's eleventh periodic report, due on 22 March 1996, be an updating report.

New Zealand

399. The Committee considered the tenth and eleventh periodic reports of New Zealand, submitted in a single document (CERD/C/239/Add.3 and HRI/CORE/1/Add.33) at its 1106th and 1107th meetings, held on 3 and 4 August 1995 (see CERD/C/SR.1106-1107).

400. The representative of the State party made an introductory statement highlighting the main points contained in the reports. Major legislative changes mentioned included the adoption of the New Zealand Bill of Rights Act 1990, the Treaty of Waitangi (Fisheries Settlement) Act 1992, the Te Ture Whenua Maori (Maori Land) Act 1993, the Human Rights Act 1993 and the Electoral Act 1993. Other developments included the restructuring of Maori affairs administration, through the establishment of the Ministry of Maori Development, Te Puni Kokiri, in 1991. The representative explained that the focus of that Ministry was to develop an environment of opportunity and choice for the Maori by improving Maori performance in areas of education, employment, business development and health. The initiatives taken to strengthen the Ministry of Pacific and Island Affairs and to establish the Ethnic Affairs Service within the Ministry of Internal Affairs were also mentioned. In addition, the representative informed the Committee of the revision of New Zealand's immigration and refugee policy which allowed entry to New Zealand of migrants from non-traditional sources.

401. As regards the developments which had taken place since the preparation of the reports, the representative stated that a key area of government attention continued to be the promotion of the settlement of historical Maori grievances and claims under the Treaty of Waitangi. This had led to the appointment of a Minister of Treaty of Waitangi Negotiations and the setting up of an Office of

Treaty Settlements. The main responsibilities of that Office were outlined. Basically, they were concerned with the development of policies for the Crown with regard to the settlement of Treaty claims and assisting the Minister in negotiating and implementing the settlement of those claims. Additionally, the representative informed the Committee about the Government's proposed policies to settle Treaty of Waitangi-based land claims through the allocation of $NZ 1 billion which has become known as the "Settlement Envelope" or "Fiscal Envelope". It was explained that while claimants do not have to agree to the specific amount contained in that "Envelope", as a precondition for negotiation, the setting of an amount would be beneficial for the assessment of the fairness of claimants' settlements. The representative stated that the process of consultation with Maori had revealed widespread concern about the proposals in their current form.

402. Further information on the settlement of claims either through direct negotiation with the Crown or through the Waitangi Tribunal process was provided by the representative of the State party. In this connection, mention was made of the settlement of a historic grievance with the Waikato-Tainui tribe and that 460 claims were registered with the Waitangi Tribunal of which 10 were under active consideration. Moreover, it was indicated that solutions for resolving land grievances were also available through the Maori reserved land lease reform and by Order in Council.

403. Additionally, the representative of the State party provided details of several administrative and policy measures taken to address Maori concerns, including in the areas of education, employment, health and social welfare. In this regard, it was indicated, inter alia, that since 1993 there had been an expansion of Maori education initiatives particularly with respect to early childhood and bilingual education. Despite the successes evidenced in the last 10 years because of the increase in Maori enrolment in childhood education and tertiary education and the advances made in school retention rates, it was explained that improvements had also been witnessed for non-Maori students and so a sizeable gap between the two groups remained.

404. Information was also provided on the changes occurring in the immigration population in view of the growing number of recently accepted immigrants coming from countries in the Asian region. Details were also given of the quota permitting the entry of refugees under New Zealand's immigration policy. Additionally, a brief description of recent events in Tokelau was provided with respect to Tokelau's consideration of constitutional changes and of an act of self-determination.

405. By way of conclusion, the representative stated that the period under review had been characterized by significant developments particularly with respect to the development of a dialogue and of consultation with the Maori and to promote the economic and social advancement of all groups within the society.

406. The members of the Committee expressed their appreciation to the State party for its comprehensive, detailed and honest report as well as for its informative and frank introductory statement. They noted with satisfaction the seriousness with which New Zealand fulfilled its reporting obligations, particularly as the State party had made considerable efforts in responding to requests for information made during the previous dialogue with the Committee. It was also noted that the Government had undertaken various measures with respect to the implementation of the provisions under the Convention, particularly in the light of its recognition of the need to address the disparities existing between different ethnic groups in the country with respect

to educational, health and other matters. Moreover, the members of the Committee noted New Zealand's efforts in the past to prepare Niue and the Cook Islands for self-government and its efforts to assist in introducing constitutional change in Tokelau as well as its commitment to continuing to provide assistance to those countries in the future which had chosen free association with New Zealand.

407. With reference to article 2 of the Convention, members of the Committee noted that a plethora of human rights mechanisms existed in New Zealand and in this connection they wished to know how the State party ensured that the problems of duplication of work and overlapping of mandates did not arise. They also wished to receive further details of the provisions of the new Human Rights Act 1993 with respect to the implementation of the rights provided for in the Convention.

408. Clarification was requested as regards the status of the Treaty of Waitangi and whether it had validity under international law. Further information was also requested with respect to the activities of the Waitangi Tribunal, its composition and whether its recommendations were implemented. In addition, information was requested as regards the concerns raised by Maori with respect to the settlement of claims, the basis of arriving at the amount of money contained in the "Fiscal Envelope" and whether that figure was negotiable. Clarification was also requested as regards the effect of the "Fiscal Envelope" on the economic situation of Maori.

409. Questions were raised by members of the Committee about the nature of the concerns expressed by Maori over the adoption of the Treaty of Waitangi (Fisheries Settlement) Act 1992 and with regard to the results of the court proceedings instituted against the Crown over the settlement as well as the means employed for the identification of those claiming settlement under the Treaty. In addition, members of the Committee expressed interest in receiving further information about the communication before the Human Rights Committee in relation to the Treaty of Waitangi (Fisheries Settlement) Act 1992.

410. Members of the Committee requested clarification as to the effect of the Waitangi Tribunal Amendment Act 1993 with respect to the Crown's return to Maori of private land for the settlement of claims. In this regard, the Committee noted that from information contained in the State party report it appeared that the Maori's share of the land was not commensurate with the size of its population and that much of the land was owned by the Crown or in private, non-Maori hands. The Committee observed that the Treaty of Waitangi Amendment Act was an area of concern insofar as it appeared to discount claims to land that had been confiscated by private parties, possibly by unlawful seizure in a previous period.

411. Members of the Committee wished to know more about the provisions and implementation of the Te Ture Whenua Maori (Maori Land) Act 1993, especially with respect to those provisions of the Act requiring the strict application of rules for the transfer of ownership of Maori land.

412. With respect to article 4 of the Convention, members of the Committee emphasized the importance of the provisions of part (b) of that article, particularly as a means to prevent racial discrimination.

413. In connection with article 5 of the Convention, members requested further information on the impact of economic restructuring on the situation of different population groups, particularly with respect to housing and employment

conditions and the development of Maori education. Members of the Committee also wished to know more about the electoral reform and its effect on Maori representation in Parliament as well as about the new immigration policy instituted in New Zealand and its possible impact on racial harmony.

414. Concerning article 6 of the Convention, members wished to know more about the number of complaints and whether there had been a noticeable improvement in the protection of the rights provided for in the Convention since the adoption of the new Human Rights Act. Further information was requested on the racial discrimination complaints procedures and the personal grievance procedures under the Employment Contracts Act.

415. In relation to article 7 of the Convention, members of the Committee requested information concerning the investigation of reported cases of ill-treatment in prisons and of the measures taken to address such situations, including the setting up of an independent prison complaints authority and the introduction of human rights education for prison staff. They also asked for more information about the proportion of offences committed by Maori and whether appropriate psychological counselling was available to Maori in prison.

416. With respect to article 14 of the Convention, members of the Committee expressed the hope that New Zealand would consider making the declaration under this article so that grievances relating to racial discrimination could be brought to the Committee.

417. In reply to the questions raised in relation to article 2 of the Convention, the representative agreed that there were a variety of organizations responsible for the promotion and protection of human rights, including the Human Rights Commission, the Office of the Race Relations Conciliator, the Office of the Privacy Commissioner, the Children's Commissioner, the Ombudsman and the Retirement Commissioner. There was not considered to be any overlapping or competition between the different areas of responsibility of these mechanisms. However, he noted that there could be initial confusion about the responsibilities of the Race Relations Conciliator, the Waitangi Tribunal, Te Puri Kokiri and the Human Rights Commission.

418. The representative of the State party also stated that section 5 of the Human Rights Act had enhanced the functions and powers of the Human Rights Commission and the Race Relations Conciliator. In this case, the Race Relations Conciliator had been given a wider jurisdiction to inquire into or make statements about race matters that did not fall within the Conciliator's unlawful discrimination jurisdiction. Section 73 of the 1993 Human Rights Act provided for affirmative action policies consistent with article 2 of the Convention. Indirect discrimination was covered by section 65 of the Human Rights Act, while sections 61 and 131 of the Act provided for penalties for racially offensive expressions. In this regard, he explained that while section 61.2 of the Human Rights Act provided a defence for a publisher or broadcaster if the report accurately conveyed the intention of the publisher or broadcaster, there was no similar defence under section 131 of the Act which carried a criminal penalty with respect to the intent to excite hostility or ill-will or to bring into contempt or ridicule.

419. Concerning the status of the Treaty of Waitangi, the representative explained that it had been recognized as a founding domestic constitutional document which had been concluded between the British Sovereign and the Maori Chiefs of New Zealand in 1840. There had never been a need for a judicial ruling on the question of whether the Treaty of Waitangi had any validity under

international law. With respect to the Waitangi Tribunal it was indicated that it was a quasi-judicial body which had statutory authority. The Tribunal was composed of 16 members, 6 of whom were Maori. The Government maintained the ability to accept or reject the Tribunal's recommendations. Those recommendations may be made in general terms or may indicate in specific terms the action which, in the opinion of the Tribunal, the Crown should take. It was further explained that while not all recommendations made by the Tribunal were implemented, the Government was committed to maintaining the reputation of the Tribunal as an effective mechanism for solving Treaty grievances.

420. The Committee was informed that the "Fiscal Envelope" was based on the notion that redress might consist of assets, money and rights. The Government recognized that monetary settlements were preferable since they enabled claimants to repurchase lands or assets themselves. In that connection, the Government had set up two different mechanisms. The first was the Crown protection mechanism, under which surplus land belonging to the Crown was held pending the settlement of claims and surplus land could be used in partial settlement and second priority was given to claims submitted by persons residing in "confiscated lands". It was further explained that the amount of money offered in the "Fiscal Envelope" was arrived at following a political decision and was not open to discussion. In arriving at that sum the Government had carefully balanced the objective of providing durable settlements and removing the claimants' sense of grievance concerning the affordability of the sum and its acceptability to the wider community. The representative also informed the Committee that while there was considerable support among Maori for the settlement of Treaty claims, there was general dissatisfaction within the Maori community over the progress of individual Treaty claim settlement and that this had been exacerbated by Maori concern about the sale of Crown-owned assets. In view of that concern, the Government had recently decided to put a hold on sales of all surplus Crown land located within the major areas in which land confiscation had occurred in the last century. That decision had met with strong support by claimants who viewed the Crown's action as a demonstration of its good faith and commitment to settling land confiscation claims. As an example of the achievements possible in the settlement of claims through the ongoing goodwill of both the Crown and Maori, mention was made of the recent settlement of the Waikato-Tainui land confiscation claim. Moreover, the representative informed the Committee that the settlement of historical grievances would not abrogate government policies to improve the social and economic position of the Maori. He clarified the Government's position with respect to the fact that nothing in the settlements would remove, restrict or replace Maori rights under article III of the Treaty of Waitangi, including Maori access to mainstream government policies.

421. Replying to the questions raised concerning the Treaty of Waitangi (Fisheries Settlement) Act 1992, the representative explained that the reservations expressed by Maori members of Parliament during the passage of the Act included concern about the provisions of the Act that declared the Settlement to finally settle all claims, both current and future, by Maori in respect of commercial fishing. He further indicated that court proceedings were instituted by representatives of ewi opposed to the settlement and its recognition in legislation. Those proceedings were dismissed by the Court of Appeal in Te Runanga o Wharekauri v. Attorney-General (1993) on the basis of the established principle of non-interference by the courts in parliamentary proceedings. It was further stated that many of the issues raised in opposition to the settlement were incorporated into the communication lodged with the Human Rights Committee under the Optional Protocol to the International Covenant on Civil and Political Rights.

422. In reply to a question on the role of the Waitangi Fisheries Commission in identifying fisheries settlement beneficiaries, the representative pointed out that settlements under the Waitangi Treaty were not negotiated directly with the Maori population. The Crown needed assurance that the settlement was being made with the right tribe or sub-tribe grouping so as to ensure a final settlement and avoid further grievances. It was also important to note that all persons entitled to benefits by virtue of their tribal membership were identified and had the opportunity to participate in decisions affecting the distribution of benefits.

423. Concerning the Waitangi Tribunal Amendment Act 1993, the representative explained that the amendment to section 6 of the Treaty of Waitangi Act 1975 arose following the Te Roroa report of April 1992 when a division of the Tribunal recommended that the Crown purchase certain private lands involved in that claim. He further stated that a fundamental principle of the Treaty claims settlement process was that one injustice could not be addressed by creating another and that a recommendation to the Crown to take certain action in relation to privately owned land was not consistent with the Crown's duty to protect private citizens' rights. Thus, the amendment was necessary to protect the status of the Tribunal and its acceptance by the people of New Zealand as a whole.

424. The representative explained that under the provisions of the Te Ture Whenua Maori (Maori Land) Act all land in New Zealand had been classified into a number of different categories. In particular, the Act made an important distinction with regard to the requirements for the alienation of Maori freehold land. He explained that the rules regarding alienation of Maori land applied to the transfer of land between Maori as well as to non-Maori and that the Act was designed to promote the retention of Maori land in the hands of whanau and hapu descendants of the person transferring the land. The general theme of the Act was the retention of Maori land within the traditional descent group associated with the relevant land. Thus, the Act was designed to address the concern of Maori at the gradual loss of Maori freehold land and also to establish structures for the more effective use, management and development of multiple-owned Maori land.

425. With regard to the concerns expressed that New Zealand's legislative provisions did not fulfil the requirements of article 4 (b) of the Convention, the representative explained that although the Human Rights Act did not prohibit the establishment of racist organizations per se, its sections 61 and 63 made it unlawful for any organization to publish or distribute racist material and to engage in racial discrimination, while its section 131 covered the offence of inciting racial disharmony. Therefore, the extent to which organizations with racist aims could promote them was clearly restricted.

426. With reference to article 5 of the Convention, and in connection with the subject of economic restructuring and its impact on employment and welfare, the representative explained that the New Zealand Employment Service did not use ethnicity as a criterion of eligibility for its services which were targeted at the most disadvantaged groups, including the long-term unemployed. However, as Maori and Pacific Islanders were substantially over-represented among the latter group, they were in effect receiving targeted assistance. In addition, there were two specific employment programmes for Maori and the Government had allocated $NZ 2.4 million to the Ministry of Pacific Island Affairs to deliver employment services. Moreover, in the context of the Government's reconsideration of policies to counter the effects of restructuring on vulnerable groups, changes had been introduced in December 1994 to increase the

level of payments to purchase food in cases of emergency and hardship, to increase the level of grants for school uniforms and to provide grants to meet costs associated with the transition from receipt of benefit to resumption of employment. Further adjustments and supplementary benefits which had been incorporated in the most recent budget were also outlined.

427. In reply to questions raised in relation to education, the representative stated that significant advances in the educational attainments of Maoris had been observed in the last five years which provided grounds for optimism about the future position of Maori in education. In addition, the positive outcomes expected from Maori-medium education initiatives should in turn lead to more favourable opportunities for Maori in the labour market. Moreover, the active promotion of the Maori language as a national language of New Zealand had inspired many New Zealanders to study it. A small number of non-Maori adults were studying the language at tertiary institutions or in community education or work-based programmes. Two Maori tertiary institutions already existed and a third was expected to be functioning by the end of 1995.

428. As regards the housing situation of Maori, the Committee was informed that 49 per cent of Maori were accommodated in rental housing as compared with 24 per cent of the New Zealand population as a whole. The 1992 census had shown that renters tended to have lower incomes and to be young. There was also a strong link to unemployment and a higher proportion of Maori were unemployed.

429. With regard to the recently introduced electoral reform and its impact on Maori representation, the representative explained that the number of guaranteed Maori seats in Parliament under the new system had been increased from four to five and that the number of Maori seats would rise or fall depending on the number of Maori opting for enrolment in the Maori roll at the end of the Maori option period. He indicated that the new mixed-member proportional system also provided additional opportunities for Maori representation, where parties felt compelled to select Maori candidates for both "list" and "constituency" seats. Equally, the new system would provide an opportunity for a party representing Maori interests to become established and win list seats in its own right. Such opportunities, including for increased representation, also applied to other ethnic groups.

430. With respect to matters relating to immigration, the representative indicated that the Government was aware that there were some Maori concerns about immigration policies. Improvements were being made to the collection of data to ensure the availability of more comprehensive information regarding the impact of immigration and to facilitate an informed public dialogue. The Government was confident that its immigration policy was consistent with its obligations under the Treaty of Waitangi and that Maori opinion had been fully taken into account when the new immigration policy had been developed. The criteria for accepting immigrants were transparent and applied to all immigrants; the points system had been designed to establish an objective measure of the merits of all applicants.

431. In connection with article 6 of the Convention, the representative informed the Committee that anyone could lodge a complaint about alleged racial discrimination against himself or herself. A complaint might also be made by one person on behalf of another as long as he was a relative or associate of the complainant. There was no specific provision in the Human Rights Act for complainants representing group interests. Moreover, by amendment to section 39 of the Employment Contracts Act, a complainant could choose the Act under which he wished to pursue a complaint. However, a complaint could not be pursued

under both the Employment Contracts Act and the Human Rights Act. The personal grievance procedure provided for under the Employment Contracts Act was designed to encourage parties to resolve the complaint among themselves and the burden of proof in such cases depended on the nature of the claim. For example, in cases of discrimination, where there could be no justification for an employer's conduct, it was the employee who must satisfy the Employment Tribunal or Employment Court that discrimination had occurred.

432. Additionally, the representative indicated that progress was also being made in the protection and promotion of the rights of ethnic minorities, particularly those of Maori and Pacific Island peoples, as well as in the recognition and prevention of harassment, especially of a racial nature. Between 1 July 1994 and 30 June 1995 a total of 587 complaints had been received by the Race Relations Office. Of those, 40 per cent related to section 61 of the Human Rights Act. In 1994/95 there had been 94 mediated settlements. There had been one prosecution by the police under section 25 of the Race Relations Act 1971 in December 1993. The police had decided in that case to prosecute under the Race Relations Act in order to demonstrate that they were prepared to take action on incitement to racial disharmony. The Department of Justice took the view that the small number of prosecutions under what had become section 131 of the Human Rights Act was partly due to the fact that the police had other legislation under which they could deal with the relevant criminal activities, for example criminal damage or offensive behaviour.

433. Concerning article 7 of the Convention and matters raised with respect to the cases of ill-treatment in prisons, the representative indicated that he would provide information on the incidents at the Mount Crawford prison in the future. However, with regard to the situation at the Mongora prison, he reported that the Ministry of Justice had held an independent inquiry into the management of the prison. A report had been published, containing 60 recommendations for action, some applying specifically to Mongora while others were of relevance to the prison system as a whole. All the recommendations contained in the report would be implemented by the end of 1995. In addition, disciplinary procedures had been instituted against some prison officers and 17 had been suspended. Inquiries into this incident continued to be pursued by the New Zealand police.

434. Moreover, the representative informed the Committee that while Maori constitute 10.6 per cent of the population aged 15 and over, Maori offenders accounted for just under half (49 per cent) of the cases which resulted in imprisonment in 1994. Thus, there had been little change in recent years with regard to the proportion of offences committed by Maori. He also indicated that although there was no specific focus in the provision of psychological services in prison for the adjustment of Maori as compared to other inmates, the Corrections Psychological Services Division was committed to enhancing its services to Maori generally and had undertaken a number of initiatives to that end. A brief description of those initiatives was provided.

435. Concerning article 14 of the Convention, the Committee was informed that the Government of New Zealand was not considering making a declaration under this article, especially as it had accepted a broadly based complaints procedure under the Optional Protocol to the International Covenant on Civil and Political Rights. Nor was it the intention of New Zealand to adhere to ILO Convention No. 169. Consultations held in 1990 had revealed serious reservations about its provisions and resistance to its ratification.

436. Furthermore, the representative informed the Committee that he would submit written replies to the questions on the Treaty of Waitangi Amendment Act and the question relating to the determination of ethnic identity. In addition, he stated that the Committee's comments with respect to articles 4 (b) and 14 had been duly noted.

Concluding observations

437. At its 1123rd meeting, held on 16 August 1995, the Committee adopted the following concluding observations.

(a) Introduction

438. The comprehensive and detailed report prepared by the State party, especially in responding to requests for information raised during the Committee's previous dialogue with New Zealand, is noted with appreciation. The highly informative introductory statement, made by the State party representative, providing detailed coverage of recent developments with regard to the implementation of the Convention is welcomed. The open, constructive and detailed responses of the delegation to the questions raised by the members of the Committee are also commended. The opportunity to continue a constructive and fruitful dialogue with the State party is particularly welcomed.

439. It is noted that the State party has not made the declaration provided for in article 14 of the Convention, and some members requested that the possibility of such a declaration be considered.

(b) Positive factors

440. It is noted that a number of legislative changes had been undertaken during the period under review. Attention is drawn in particular to the adoption of the Human Rights Act 1993 which amalgamated the Race Relations Act and the Human Rights Commission Act.

441. During the reporting period, it is observed that other developments which have taken place include the establishment in 1991 of Te Puni Kokiri (the Ministry of Maori Development) which replaced the IMI Transition Agency and the Ministry of Maori Affairs; the strengthening of the Ministry of Pacific and Island Affairs; the establishment of the Ethnic Affairs Service within the Ministry of Internal Affairs; and the establishment of the Ministry of Cultural Affairs.

442. It is noted with satisfaction that New Zealand has decided to mark the first year of the International Decade of the World's Indigenous People by designating 1995 as the Year of the Maori language. The aim of the year being to encourage Maori and other groups and individuals to make an active commitment to learning and promoting the Maori language.

443. The introduction of new targeted policies and programmes in the fields of education, health, employment and social welfare to address the specific needs of Maori and ethnic minorities is welcomed.

444. In this regard, the Government's stated commitment to continue providing support for the improvement of education results for Maori is acknowledged. The intention of the Government to develop policy to address disparities in the areas of secondary school retention, school truancy, achievement and attainment,

participation in core subject areas and progression to further education and training is welcomed.

445. The efforts undertaken by the State party to address the high infant mortality rate in the Maori population are also welcomed. Equally, the adoption of strategies by the Government to enable Maori and Pacific Island people to develop and deliver appropriate social services using traditional cultural approaches is appreciated.

446. It is noted with satisfaction that a Prime Ministerial Task Force on Employment was established in 1994 and that a multiparty memorandum of understanding was issued in June 1995 in response to the findings of the Task Force's report. In this connection, it is noted that a number of programmes have recently been initiated to address the needs of unemployed Maori and a number of recommendations have been made regarding the employment issues affecting Pacific Island people.

447. Note is also taken of the Race Relations Office's recently completed research project undertaken on the subject of positive race relations in the country and the survey conducted to help identify the victims of racially motivated crime.

448. Tokelau's pursuance of the path towards self-government, with the possibility of adopting the status of free association with New Zealand, is noted.

449. Satisfaction is expressed at the practice instituted in the State party of publicizing the presentation of human rights reports. It was further noted that the publications produced contain the report, opening statement, the questions raised and answers provided as well as the concluding observations of the Committee and are widely distributed throughout the country.

(c) Principal subjects of concern

450. The Government acknowledges that there remains widespread concern among the Maori about the present proposals, especially the so-called "fiscal envelope" designed to settle Maori grievances and claims under the Treaty of Waitangi. The Maori concern also extends to the issue of the compatibility of these proposals with the terms of the Treaty. Concern is expressed that this problem remains unsettled.

451. Similar concerns are raised regarding the probable effects of the new immigration policy on racial harmony and the implementation of the Treaty of Waitangi (Fisheries Settlement Act) 1992.

452. While the policy and special programmes to improve the situation of the Maori, Pacific Island and other ethnic minorities are commended, the existing social and economic disparities between the Maori and Pacific Islanders on the one hand and the Pakeha in New Zealand continue to be a matter of concern.

453. Concern is also expressed about the adequacy of the measures to implement article 4 (b) of the Convention.

(d) Suggestions and recommendations

454. The Committee wishes to receive further information on the proposal of the Government to implement changes to the Immigration Service's data collection and

evaluation systems, and to make available more comprehensive information on the impacts of immigration and the situation of immigrants so as to further facilitate informed public dialogue with respect to New Zealand's immigration policies.

455. In view of the Government's declared commitment to address what are openly acknowledged to be difficult and challenging historic and contemporary issues, the Committee recommends that the State party continue to accord careful consideration to the concerns expressed about proposals to settle Maori grievances and land claims, including their compatibility with respect to the provisions of the Treaty of Waitangi.

456. The Committee wishes to receive further information in the next report of the State party on the implementation of the Treaty of Waitangi (Fisheries Settlement) Act 1992, the Te Ture Whenua Maori (Maori Land) Act 1993 and the Electoral Act 1993.

457. It is suggested that the Government consider undertaking further measures with respect to the implementation of article 4 (b) of the Convention which requires States parties to declare illegal and prohibit organizations which promote and incite racial discrimination.

458. In line with the usual practice of the State party, the Committee recommends that the report, the discussion with, and the concluding observations adopted by, the Committee be widely publicized in New Zealand.

459. The Committee recommends that the State party's twelfth periodic report, due on 22 December 1995, be a brief updating report.

El Salvador

460. The third, fourth, fifth, sixth, seventh and eighth periodic reports of El Salvador, submitted in one document (CERD/C/258/Add.1), were considered by the Committee at its 1108th and 1109th meetings, held on 4 and 7 August 1995 (see CERD/C/SR.1108-1109).

461. The reports were introduced by a delegation from the State party, which stated that El Salvador was committed to the preservation of indigenous culture. The State representative further explained that 12 years of civil war had impeded his country's submission of reports to the Committee during that time. He assured the Committee that his country was eager to renew a constructive dialogue with the Committee and would henceforth submit reports in a timely manner.

462. The representative declared that the country had changed in only a few years. The peace process that had begun with the signing of the Peace Accord of 1992 was irreversible. It was reinforced by the change from a military to a civilian police force and the establishment of the Office of the Procurator for the Protection of Human Rights. The State had also benefited from the presence of the United Nations Observer Mission in El Salvador (ONUSAL) and the technical cooperation programmes of the Centre for Human Rights. In the latter connection, El Salvador had received a human rights needs assessment mission from the Centre as part of its technical cooperation programmes in which a member of the Committee had participated.

463. With respect to human rights treaties, the representative explained that El Salvador had ratified the ILO Discrimination (Employment and Occupation)

Convention, 1958 (No. 111), the Indigenous and Tribal Populations Convention, 1957 (No. 107) and other regional and international human rights treaties. With respect to the Convention, however, the representative stated that in El Salvador the phenomenon of racial discrimination did not exist. All persons in El Salvador enjoyed equal rights, including indigenous people. At the same time, he acknowledged that there was no precise demographic data on indigenous persons, but such persons were few and lived in small groups in dispersed settlements. The Government had programmes that aimed to preserve and diffuse the indigenous languages.

464. Members of the Committee expressed appreciation for the resumption of the dialogue between the Committee and El Salvador. Mention was made of the need to evaluate the report in the context of the civil war from which the State party was emerging and expressed appreciation for its efforts reflected in both the report and the core document. Members agreed that the El Salvador of today was different from the El Salvador of only four years before and took note of the fact that, as part of the dialogue between the Government and the Frente Farabundo Martí para la Liberación Nacional, an agreement on human rights was signed in 1990 at San José, containing the rights recognized by El Salvador in its Constitution and within the framework of the human rights instruments of the United Nations and the Organization of American States. The agreement would be monitored by a human rights verification mission.

465. Members expressed concern that the report was incomplete and not in compliance with the Committee's guidelines for the preparation of State reports. A member noted that paragraphs 6 to 49 of the report repeated the same information contained in the core document, which meant that the report itself consisted only of paragraphs 1 to 5 and 50 to 60. There was no information on the situation of indigenous persons, who, according to the last census in 1930, and taking into account the estimated death toll from the 1932 uprising, should have numbered approximately 50,000 after the uprising. Although many of their descendants had been assimilated into the mainstream society, there continued to exist small indigenous populations that maintained their traditional lifestyles. These communities had limited access to employment and educational opportunities, limited possession of land titles and bank credit and other forms of economic opportunities. The fact that the report failed to recognize the existence of these indigenous communities, and that these communities had been extremely marginalized, constituted a violation of the Convention and were matters of concern. Consequently, the Committee member could not accept the assumption underlying the statement in the report that "in view of the fact that Salvadoran society does not have any problem of ethnic populations, the Government of El Salvador considers it irrelevant and unnecessary to refer to the operative part of the Convention ...".

466. A member referred to article 201 of the Constitution, which provided that "no educational establishment may refuse or admit students on the grounds of the nature of the union of their parents or guardians or of social, racial, or political difference". He asked whether such a provision still existed, why there was no report thereon, what it meant in practice, whether it could be invoked in court and whether there were any court rulings in that respect.

467. With respect to article 1, paragraph 4, of the Convention, a member drew attention to the fact that there was no indication in the Constitution concerning the implementation of the provision.

468. With regard to article 4 of the Convention, it was further indicated that the core document referred to several institutions that were established for the

protection of human rights, including the Presidential Commissioner for Human Rights and the Office of the Procurator for the Protection of Human Rights. A detailed explanation was requested of their functions, mandates, activities and relationships with the judiciary and Parliament. The delegation was also asked about the possibility of invoking the Convention in courts of law and noted that while the requirements of article 4 (a) of the Convention appeared to be met by article 406 of the Criminal Code, article 4 (b) of the Convention had not been implemented. A question was posed whether there had been any improvement in the situation of communities of former refugees repatriated from neighbouring countries, which apparently faced obstacles posed by the military with regard to supplies and freedom of movement.

469. A member drew attention to the fact that there was also no indication in the Constitution concerning the implementation of the guarantees contained in article 2 of the Convention, including whether the rights to life, personal security and ownership of property were enjoyed in practical terms.

470. It was also noted that no information was provided with respect to the implementation of article 5 of the Convention.

471. With respect to article 6, concern was expressed that politically motivated acts of violence continued to take place with impunity, since they were rarely followed by an official investigation. In view of that situation, members expressed grave concern over the adoption of the Amnesty Law and the failure to exclude those who had violated human rights from serving in the military, the national police, the judiciary or other branches of Government. They also commented on the lack of information in the report on developments in the human rights situation since the signing of the 1992 Peace Accord, whereas the Committee had received information from other sources according to which past violators of human rights enjoyed impunity and that violations had been committed by the new civilian police. It was asked whether any specific plans were in place for reparations, compensation and other action to guarantee that human rights violations would not be repeated. Specific information was requested regarding the implementation of the right to effective remedy, as provided for in article 6 of the Convention.

472. In connection with article 7, it was also pointed out that while the report asserted that under the 1983 Constitution international treaties had force of law and could be invoked in court, it was not in the juridical culture of El Salvador to invoke international treaties. It was asked whether this was not an indication of poor dissemination of information. One member emphasized the importance of training law enforcement officials, on which the views of the Committee were elaborated in its General Recommendation 13. The question was asked what actions had been taken towards such training and what influence such training had on the protection of human rights in the State party.

473. Information was requested concerning migratory movements, particularly of refugees, both from the State party in other countries and those seeking refuge in the State party from other countries. It was suggested that the State party undertake a study of its obligations under articles 2 to 7 of the Convention. Other members expressed the view that the civil war was all the more reason for stronger international supervision of the situation in the State party. One member requested further explanation of article 406 of the Penal Code and requested information on what would happen in October when ONUSAL was to withdraw from the territory of the State party.

474. Members of the Committee also requested that the State party accept the amendment to article 8, paragraph 6, of the Convention regarding financing of the Committee and to submit its instrument of acceptance to the Secretary-General at an early date. Some members recommended that the State party consider making a declaration of acceptance of article 14 to recognize the competence of the Committee to receive individual communications.

475. One member described his participation in a needs assessment mission to the State party at the end of May and early June. The mission was organized by the Centre for Human Rights and took place within the framework of its technical cooperation programmes. He explained that the independent expert on the human rights situation in El Salvador had recommended that the Commission end the process of monitoring and embark on the provision of advisory services. Advisory services were recommended with respect to the consolidation of the parliamentary process, reform of the organs of control over society, including the security forces and civil police, development of new laws and definition of the future role of the Procurator for Human Rights with regard to minorities. The member explained that the mission was in response to the State's request for technical assistance, that the information obtained during the mission was currently being analysed by the Centre and that a report would be available when that analysis was concluded.

476. In response to the questions and comments of the members of the Committee, the representative of the State party stated that the civil war had impeded the fulfilment of its obligations under the Convention. He confirmed that the article prohibiting racial discrimination had been maintained in the 1983 Constitution.

477. The representative explained that the statement in the report that El Salvador had no significant indigenous populations was due to methodological difficulties in identifying and assessing the situation of indigenous persons. He stated that the characteristics used elsewhere to identify ethnic groups, such as special clothing, religious traditions or the use of native languages, were not evident in El Salvador. He further explained that an intensive process of assimilation had been taking place since the Spanish conquest. The civil war served to further scatter the indigenous communities with the effect that they were now very difficult to trace and had become, in that sense, invisible.

478. The representative stated that the Government was aware that indigenous populations existed and was making a concerted effort to preserve indigenous cultures and languages. More attention would be paid to the process called transculturation as well as to appropriate methods of identifying indigenous persons, perhaps with the assistance of the Centre for Human Rights. He pledged that a report would be submitted to the Committee in 1996 describing developments in those efforts.

479. With respect to article 4, the representative further stated that the provision in the Criminal Code which defined as an offence the incitement to hatred against specific groups had not been altered. He agreed to provide information on the number of cases involving that provision after consulting the authorities. There were no court cases invoking the Convention to date, but training for judges and lawyers on the use of international law was being provided by the Supreme Court.

480. In response to questions regarding the role of the public security forces in relation to articles 6 and 7 of the Convention, the representatives explained that a new Ministry of Public Security had been established in June 1995 and

that the training of police was undertaken by the new Public Security Academy. It was hoped that new disciplinary regulations for the National Civil Police would be approved within the month. Further, action had been taken to accelerate the investigation of 117 cases of serious offences.

481. Regarding migratory movements, the representatives informed the Committee that approximately 200,000 persons had left the country to seek refuge in neighbouring countries. All had returned under a voluntary repatriation plan, which was recognized as successful by the United Nations High Commissioner for Refugees. However, there were about 500,000 persons who had been internally displaced as a result of the conflict, which undoubtedly affected some indigenous communities, in addition to a number of refugees from Honduras currently in El Salvador.

482. With respect to the withdrawal of ONUSAL, the representative responded that the withdrawal was a decision of the Security Council reflecting the belief that the peace process had become irreversible and now rested with the people and Government of El Salvador to continue. A respected expert in human rights had been appointed as Procurator for the Protection of Human Rights; her office functioned with full powers to promote and protect human rights as provided for in article 194 of the Constitution and its implementing legislation. It had already begun to receive complaints of human rights violations, a function previously performed by ONUSAL. The Committee's observations had been noted and efforts would be made to include all the information requested by the Committee in the next periodic report.

Concluding observations

483. At its 1124th meeting, held on 16 August 1995, the Committee adopted the following concluding observations.

(a) Introduction

484. The submission of the third to eighth periodic reports of El Salvador, which were combined in a single document, is welcomed. Appreciation is expressed for the opportunity to re-establish the dialogue between the Committee and the State party since the consideration of the combined initial and second periodic report in 1984, as well as for the constructive nature of the discussion. Appreciation is also expressed for the oral answers which the delegation provided to questions raised by members of the Committee.

(b) Positive aspects

485. The new era of peace and democratization that has recently been established in the State party following 11 years of civil war is a welcome development, as is the signing of the Agreement on Human Rights in July 1990. The Agreement establishes a basis for certain rights and freedoms being overseen by a human rights verification mission. This development will reinforce action against racial discrimination.

486. It is noted with satisfaction that several institutions have been established with constitutional and legal authority to defend human rights, specifically the Office of the Procurator for the Protection of Human Rights, the Presidential Commissioner for Human Rights, the Department of Human Rights within the Supreme Court of Justice and the Commission on Justice and Human Rights under the Legislative Assembly.

487. Note is taken of the fact that, under the Constitution of 1983, international treaties, including the International Convention on the Elimination of All Forms of Racial Discrimination, are granted a higher status than domestic law and may be invoked in the courts.

488. The State party's request for advisory services and technical cooperation from the Centre for Human Rights is noted with appreciation. In this connection, it is also noted that the programme which has been organized for El Salvador contains important elements, including the strengthening of human rights institutions and education and training for officials involved in the protection of human rights.

(c) Principal subjects of concern

489. It is regretted that the possible deficiencies raised in connection with the second periodic report have not been corrected in the present submission, particularly the lack of information regarding the protection of specific rights and action taken under the specific articles of the Convention and the reports' general non-conformity with the guidelines of the Committee for the preparation of State party reports. These problems continue to impede its ability to monitor the fulfilment of the State party's responsibilities under the Convention.

490. The assertion of the State party that, because there are no physical distinctions between the indigenous population and the population as a whole, and because the number of indigenous persons is insignificant, no racial discrimination exists in the State, is not acceptable. The Government's failure to acknowledge the existence of persons of indigenous ethnic origin makes it difficult for the Committee to evaluate the implementation of the Convention.

491. It is regretted that no references to the rights of indigenous persons are made in the Constitution, including their right to participate in decisions affecting their lands, culture, traditions and the allocation of natural resources.

492. Deep concern is expressed at the lack of effort by the authorities to collect information regarding the situation of indigenous ethnic and other minorities which could serve as an indication of the practical implementation of the Convention, particularly when there appears to be clear evidence that the indigenous minorities live in conditions of extreme economic marginalization.

(d) Suggestions and recommendations

493. The Committee recommends that the State party actively foster a legal culture that effectively protects human rights by disseminating as widely as possible information on the international human rights treaties to which it is party, among the authorities responsible for the protection of human rights as well as among the general public.

494. The Committee suggests that the State party take steps to ensure effective coordination between the institutions established in the areas of human rights and requests detailed information in the next periodic report on the legal functions of these institutions, in particular the Procurator for the Protection of Human Rights, their activities undertaken so far and the relationships with each other and with the judiciary and Parliament. It specifically requests information in the ninth periodic report of the State party on the actual and

envisaged roles of these institutions in the protection of the rights of indigenous and other minorities.

495. The Committee recommends that reliable quantitative and qualitative information be systematically collected and analysed to evaluate progress in the elimination of racial discrimination and to monitor closely the situation of marginalized persons and groups. It recommends that detailed demographic information be submitted in the next periodic report on the categories of persons enumerated in article 1 of the Convention and in conformity with paragraph 8 of the Reporting Guidelines. The Committee specifically recommends that information be included in that report on the present situation of indigenous people, which at the time of the last census in 1930 numbered approximately 50,000.

496. The Committee recommends that the State party request, as part of the technical cooperation programme currently being implemented in conjunction with the Centre for Human Rights, assistance with the collection of relevant information on the economic and social situation and the legal status of individuals belonging to ethnically distinguished groups in El Salvador, and with the preparation of reports to be submitted to the treaty bodies. It suggests that the State party undertake a thorough review of its obligations under, and its own compliance with, articles 2 to 7 of the Convention. It suggests that technical assistance may also be requested from the Committee in connection with such a review.

497. The Committee recommends that the State party ratify the amendments to article 8, paragraph 6, of the Convention, adopted by the Fourteenth Meeting of States Parties.

498. The Committee recommends that the State party's ninth periodic report, due on 30 December 1996, be a comprehensive report.

Nicaragua

499. The fifth, sixth, seventh, eighth and ninth periodic reports of Nicaragua, submitted in one document (CERD/C/277/Add.1), were considered by the Committee at its 1110th and 1111th meetings, held on 7 and 8 August 1995 (see CERD/C/SR.1110-1111).

500. The report was introduced by the representative of the State party, who referred to the tragic events that had affected his country, in particular the political struggles that had given rise to civil wars and dictatorships. With the election in 1990 of Mrs. Chamorro, the candidate of a coalition of 14 political parties, Nicaragua had embarked on a process of transition towards economic and social reconstruction, strengthening of democracy and national reconciliation. To that end, the main programmes being implemented by the authorities related to combating poverty, decentralization and encouraging the establishment of small- and medium-sized businesses. The process was fraught with difficulties, however, due to the country's poor economic and social situation, with the highest rate of external indebtedness in the world, a very low GDP and a very high birth rate (3.7 per cent).

501. Article 5 of the 1987 Constitution, amended in 1995, enshrined the principle of political, social and ethnic pluralism, by recognizing for the first time the existence of indigenous populations who thus enjoyed constitutional rights and guarantees, in particular the right to preserve their identity and their culture, to adopt their own social structure and administer

their local affairs and to maintain community forms of land ownership, enjoyment and use. Article 121 of the Constitution stipulated that the indigenous populations of the Atlantic Coast regions were entitled to a multicultural education in their region. Most of the ethnic groups in Nicaragua lived in the two Atlantic Coast regions and were composed chiefly of mestizos, Miskitos, Creoles, Sumus and Ramas. Those regions were the least densely populated in the country, with a population that was 35 per cent urban and 40 per cent rural, with the rest living in scattered areas.

502. The legal system set up by the authorities in 1986 to protect the minorities in accordance with the Convention was described in detail in the report, in particular the relevant provisions of the Constitution and Act No. 28, the Autonomy Statute of the Atlantic Coast Regions of Nicaragua. The latter provided for the establishment of Governments of the Autonomous Regions, comprising a Regional Council, a Regional Coordinator and municipal and communal authorities, with decision-making power regarding the use of natural resources.

503. Thanking the representative of Nicaragua for the additional information he had provided in introducing the report, the Committee expressed its satisfaction at the resumption of dialogue with Nicaragua, but noted with regret that the report did not contain specific information on the implementation of the anti-racial-discrimination legislation and the Convention. The Committee reminded the representative of Nicaragua that regularity in submitting periodic reports under the Convention (every two years) was essential for an effective dialogue with the Committee.

504. Regarding the general part of the report, the members of the Committee requested more information on the composition and operation of the Nicaraguan Institute for the Development of the Autonomous Regions (INDERA) and up-to-date information on the indigenous populations, in particular their composition, geographic location and economic situation, throughout the territory of the country. The members of the Committee pointed out that the report contained information on the ethnic minorities of the Atlantic Coast only and asked about the other minorities and indigenous groups living in Nicaragua, especially those on the Pacific coast. They also asked about the status of international conventions, in particular the International Convention on the Elimination of All Forms of Racial Discrimination, in Nicaraguan domestic law.

505. With regard to article 2 of the Convention, the members of the Committee asked for further information on the policies implemented to combat all forms of racial discrimination. Concerning article 2, paragraph 2, they also asked for more information on the effective functioning and strengthening of the powers of the two Regional Councils set up by the 1987 Autonomy Statute, especially with regard to conservation and use of natural resources and to their degree of political and administrative autonomy with respect to the central government in Managua. Information was also requested on the situation of the special fund for social development and progress provided for the two Autonomous Regions and on the amount of financial resources allocated annually by the central authorities to the operating budgets of the autonomous governments. They also asked for further information on the draft legislation to be prepared, in consultation with the indigenous populations concerned, on the rational use and conservation of the natural resources of the autonomous regions.

506. The Committee noted that the information provided in connection with article 3 of the Convention was inadequate, inasmuch as practices identical to apartheid continued to exist in several parts of the world. The members of the

Committee therefore asked for additional information on the measures taken by the authorities under article 3 of the Convention.

507. With regard to article 4 of the Convention, in view of the lack of information in the written report, the members of the Committee asked for further details on the positive legislative steps taken by the authorities, especially in the criminal sphere, to make all forms of racial discrimination punishable offences; in that connection, they asked the representative of Nicaragua whether the Statute on the Rights and Guarantees of Nicaraguans, mentioned in the previous report, article 22 of which prohibited all propaganda against peace and any advocacy of national, racial or religious hatred, was still in force, and if so, whether it was applied and in what context.

508. Noting the lack of information on article 5 of the Convention in the report, the Committee asked for additional information on the steps taken to implement that article, in particular the measures adopted, and their application, to ensure the equality of all before the law and the exercise of political, civil, economic, social and cultural rights by everyone, without discrimination.

509. Concerning article 6 of the Convention, the members of the Committee asked for explanations of the steps taken by the authorities to facilitate the return and resettlement of the members of indigenous groups who had fled to Honduras and Costa Rica during the hostilities, in particular long-term measures; they also asked for information on the functioning of the judicial bodies in the Autonomous Regions and on the administration of justice in general in those regions, which according to article 18 of the Autonomy Statute was governed by special regulations. They also asked what remedies were available in cases of racial discrimination. Information was also requested on the establishment of the Human Rights Advocate and on his powers and functions.

510. In connection with article 7 of the Convention, the members of the Committee asked what were the "cases specified by law" in which, according to article 11 of the Constitution, "the languages of the communities of the Atlantic Coast region of Nicaragua shall also be used officially". Since the relationship of the indigenous peoples of the Atlantic Coast with their land was basic to their culture, the members of the Committee asked what was the area of the inalienable lands of those groups and requested details of the provisions governing the mineral resources found on them.

511. In response to the questions and comments by members of the Committee, it was said by the representative of the State party that the Nicaraguan Institute for the Development of the Autonomous Regions had recently been disbanded, first because its main function, to bridge the gap between the national Government and the Atlantic Coast autonomous regions, was no longer relevant as regional governments and councils had been consolidated, and secondly because the management of the Institute was primarily handled by representatives of the Misquito community, thus leading to discontent among the members of other ethnic groups who felt they were not adequately represented. He said that there were various indigenous communities in the Pacific coast regions, with populations of between 14,000 and 28,000 inhabitants, but in general those indigenous populations had been assimilated into the local community, thereby losing their traditional cultures and customs.

512. Responding to specific questions regarding the exploitation of natural resources in the autonomous regions, the representative of the State party said that the central Government issued the licences, which were subject to the

approval of the Regional Councils. The regional territory could not be yielded without the prior approval of the Regional Councils, the resulting disputes between the State and the Regional Councils being dealt with by the Supreme Court of Justice.

513. The representative added that concerning the bilingual inter-ethnic education programme, teachers, instructors and leaders and representatives of indigenous communities were directly involved in its implementation, which had covered 13,000 children between pre-school age and the fourth grade of primary school, in 1992. A bilingual teacher-training centre had been set up in Puerto Cabezas in the North Atlantic Coast region. He added that in the autonomous regions, the languages spoken by the indigenous communities were used officially in the administrative organs of the regions, in addition to Spanish; translations of employment contracts and collective agreements must be guaranteed and all staff involved in the administration of justice and law enforcement officials must be able to understand the languages spoken by all parties involved in a dispute. In the field of technical education, the Nicaraguan Institute of Technology and a number of indigenous organizations had organized between 40 and 50 courses aimed at job creation and the enhancement of technical skills, particularly for the benefit of demobilized persons, returnees and women heads of household, in about 60 indigenous communities. Some 300 people had participated in workshops designed to encourage the launching of small-scale projects and micro-enterprises.

514. The representative said that his Government had allocated funds through the Emergency Social Investment Fund (FISE), which had been promoting the development of economic and social infrastructures such as bridges, roads, waterways, educational buildings and health centres and in reforestation programmes. The Nicaraguan Institute of Energy, with foreign assistance, had invested US$ 5 million in the previous two years in new electric power plants designed to improve energy distribution in urban centres such as Bluefields and Puerto Cabezas.

515. Regarding tourism in the autonomous regions, the Ministry of Tourism was preparing cultural and environment-friendly tourism programmes, in which members of the communities were trained to run the projects, and advisory services were available for the launching of community-based initiatives.

516. The representative said that a Commission on Ethnic Affairs and Indigenous Communities had been set up in the National Assembly, all its members being from the indigenous population; this Commission had prepared the Nicaraguan Plan of Action for the International Decade of the World's Indigenous People, comprising several themes and activities each year until the year 2004.

517. At the same time, the representative emphasized that it was impossible to redress in such a short period of time the consequences of civil wars, foreign occupation, dictatorship, natural disasters and negligence on the part of the central authorities.

518. Concerning Nicaraguan involvement in the international and interregional protection of the rights of minorities, the representative said that Managua was the headquarters of the Indigenous Parliament of America, which recently held the eleventh Inter-American Indigenous Congress, during which the Managua Declaration was adopted; the Declaration noted the urgency of recognizing the tenure of land belonging to the continent's indigenous populations, of establishing coordinating machinery between States and indigenous populations to facilitate decision-making on matters concerning those populations, and of

involving indigenous peoples in all aspects of political, legal, economic and social life. Nicaragua had actively participated in the activities of the Working Group on Indigenous Populations of the Subcommission on Prevention of Discrimination and Protection of Minorities since its establishment in 1982 and it also supported the drafting of a declaration on the rights of indigenous peoples.

519. The Committee thanked the representative for the supplementary information provided, but noted that the delegation had failed to explain how it was complying with article 4 of the Convention.

Concluding observations

520. At its 1124th meeting, held on 16 August 1995, the Committee adopted the following concluding observations.

(a) Introduction

521. Appreciation is expressed for the resumption of the dialogue between Nicaragua and the Committee, and for the detailed and frank report submitted by the State party. It is, however, regretted that the report provided insufficient factual information, especially with regard to the implementation of the Convention and the related domestic legislation. The delegation which presented the report is commended for the useful additional information provided orally, in response to the questions raised and comments made by the Committee members, and its commitment to provide the Committee with written answers is most welcome.

522. The armed conflict raging in the country during the past decade, in which the indigenous populations were, willingly or unwillingly, used as political, military and strategic tools, dominated the overall human rights picture of the country, and still has some consequences for the full enjoyment of human rights by all Nicaraguans, together with the political problems of governance and economic crisis, which still persist.

523. It is noted that the State party has not made the declaration provided for in article 14 of the Convention, and some members of the Committee requested that the possibility of such a declaration be considered.

(b) Positive aspects

524. The Constitution of 1987, which recognizes for the first time the multi-ethnic character of the Nicaraguan population and grants to all persons the enjoyment of the rights proclaimed in various international and regional instruments, is welcomed. Other encouraging developments include the provisions of the same constitution and of Act No. 28 of 1987, known as the Autonomy Statute, which establishes a special regime of autonomy for two regions of the Atlantic coast of Nicaragua where most of the ethnic minorities and the indigenous groups live. The Autonomy Statute recognizes and guarantees, among other things, the communal form of land ownership of the peoples of the two autonomous regions and their right to education in their own language.

525. The Committee welcomes the constitutional amendments of 1995, especially the provisions which emphasize the ethnic pluralism of Nicaragua and reinforce the rights of the indigenous populations and other ethnic groups of the Atlantic coast, including the right of the regional councils to approve agreements for the exploitation of their natural resources.

526. The adoption of the Amparo Act in 1988, providing for the right to habeas corpus in the constitutional, administrative and criminal spheres, and the statement made in the report that cultural, social and other factors are taken into account when members of the indigenous communities are tried, are both welcomed. Note is taken with appreciation of articles 549 and 550 of the Criminal Code, inspired by the Convention on the Prevention and Punishment of the Crime of Genocide.

527. The elections in 1990 and 1994 of the two Regional Councils, which are granted important functions and powers by the Autonomy Act of 1987, in particular with regard to the conclusion of agreements between the regional and central governments on rational use and exploitation of the regions' natural resources, are noted with satisfaction, as is the constitutional provision of 1995 to enact a new and more complete law for the autonomous regions.

528. It is noted with appreciation that efforts are being made by the authorities to set up a multilingual education system in favour of the indigenous communities, and that, in accordance with Act No. 162, indigenous languages besides Spanish are of official use in the autonomous regions.

529. The establishment in the constitutional reforms of 1995 of the Office of Human Rights Ombudsman to inquire into human rights violations and to monitor the implementation of international human rights instruments ratified by Nicaragua, such as the Convention, is welcomed.

530. The efforts made by the State party, in cooperation with the United Nations, to arrange the repatriation and the resettlement of the Miskitos, Sumus and Creoles who fled to neighbouring countries during the civil conflict, are commended.

(c) Principal subjects of concern

531. Concern is expressed as to the status of the Convention in the domestic legal order of Nicaragua and the lack of information about this in the report and during the oral presentation.

532. It is noted with concern that the State party has not implemented the provisions of article 4 of the Convention, which call for the adoption of positive measures and specific penal legislation to combat racial discrimination.

533. The realization of economic and social rights is a matter of continuous concern, in particular as the so-called structural adjustment measures and the privatization of State property have had negative consequences on the enjoyment of the economic, social and cultural rights of the Nicaraguan people, especially on its most vulnerable sectors and among them the indigenous communities.

534. It is regretted that insufficient information was provided on the implementation of articles 5 and 6 of the Convention, in particular on specific provisions of the domestic legislation adopted to implement these articles and on the number of complaints of racial discrimination brought before the courts.

535. Concern is expressed at the ratio of communal land to private land in the autonomous regions, with particular regard to the mining rights and at inequalities in the sharing of the benefits of the exploitation of natural resources in the autonomous territories between the regional and the central authorities.

536. Further concern is expressed at the lack of adequate consultation with the regional authorities in the decision-making process by the central authorities, thus leading to insufficient participation of the indigenous groups in decisions affecting their land and the allocation of the natural resources of their land, their cultures and their traditions.

(d) Suggestions and recommendations

537. The Committee recommends that the State party implement the obligations under the provisions of article 4 of the Convention.

538. In view of the importance of measures in the fields of teaching, education, culture and information to combat prejudices which lead to racial discrimination and to promote understanding, tolerance and friendship among racial and ethnical groups, the Committee recommends that the State party take all necessary measures in those fields in accordance with article 7 of the Convention.

539. The Committee recommends that, in its policy-making on matters relating to racial discrimination at large, the Government take into account the general recommendations adopted by the Committee, including those relating to the establishment of a national commission for the purpose of facilitating the aims and purposes of the Convention (general recommendation XVII (42)) and to the training of law enforcement officers (general recommendation XIII (42)).

540. The Committee recommends that the State party ratify the amendments to article 8, paragraph 6, of the Convention, adopted by the Fourteenth Meeting of States Parties.

541. The Committee recommends that the State party's tenth periodic report, due on 17 March 1997, be a comprehensive report.

United Arab Emirates

542. The Committee considered the eleventh periodic report of the United Arab Emirates (CERD/C/279/Add.1) at its 1113th meeting, on 9 August 1995 (see CERD/C/SR.1113).

543. The report was introduced by the representative of the State party, who asked the Committee to excuse his Government's absence from the Committee's work for a number of years and the late submission of the periodic report, which was due to external circumstances and to administrative factors. He recalled that his country was a young country, which had not gained its independence until 2 December 1971.

544. He explained that the Constitution and a number of legislative provisions, some of them enacted under the British Protectorate, guaranteed all persons within the territory of the United Arab Emirates freedom of opinion and expression, religious freedom and the right of appeal to the courts if those rights were violated.

545. Foreign communities in the United Arab Emirates had the right to open private schools providing instruction in their own language and according to their own methods. In 1980, a labour relations act had been adopted. The United Arab Emirates had also ratified a number of ILO Conventions such as Conventions Nos. 1, 29, 81 and 89. In 1981, Act No. 20 had been adopted, guaranteeing the freedom to form occupational associations without State interference.

546. The United Arab Emirates also provided considerable development cooperation assistance, in particular to Africa.

547. The members of the Committee welcomed the presence of a high-level delegation to re-establish the dialogue on the implementation of the Convention in the State party. They noted with regret, however, the long delay in submitting the periodic report, which was the first since 1986. They also pointed out that there were many gaps in the report, particularly with regard to statistics on the composition of the population and the socio-economic situation of the various population groups, and that it had not been drawn up according to the Committee's guidelines for the preparation of reports. However, some of those gaps had been filled in by the delegation's oral explanations.

548. The members of the Committee asked for a more detailed explanation than was given in the Government's report regarding the status of the Convention in the internal legal order.

549. One obvious deficiency noted concerned the application of article 4 of the Convention. Although offending against religious beliefs and defamation were punishable, it was difficult to treat such offences as racist propaganda or incitement to racial discrimination. Consequently, the members of the Committee urged the Government to review its legislation and ensure that it was in conformity with article 4 of the Convention.

550. With regard to the application of article 5 of the Convention, members of the Committee asked to what extent foreign workers - who, according to some sources, made up 80 per cent of the total labour force - were entitled to have their children join them and to have them educated in their own language, and whether those children were free to practise their religion. They also asked which countries had bilateral agreements with the United Arab Emirates regarding the status of foreign workers and what was the content of those agreements. The members of the Committee expressed their deep concern at information from various sources that foreign workers, particularly women from Asian countries, were subjected to inhuman treatment, and asked for clarification in that regard. They also asked whether aliens living in the United Arab Emirates had the right to assemble freely and practise their culture.

551. The members of the Committee asked about the current situation of the four Indian citizens living in the United Arab Emirates who had been sentenced to imprisonment by the authorities for having insulted Islam in a theatrical performance given by an Indian association in 1992. They also asked about the situation of the three aliens arrested in 1993 for anti-Islamic activities.

552. Clarification was requested regarding the remedies available to victims of racist acts: were such offences dealt with by the secular or Islamic courts? Could the Convention be invoked directly by individuals before the Islamic courts? Had the Convention ever been invoked before any court?

553. Replying to the Committee's questions and observations, the representative of the State party said that the Committee would be provided with full statistics and written replies to some of its questions.

554. Regarding the status of the Convention in the internal legal order, under article 120 of the Constitution, the President of the Federal Supreme Council approved international instruments by decree, and any decree approving an international treaty was enforceable and could be invoked before the courts like

any other law. The International Convention on the Elimination of All Forms of Racial Discrimination had thus far never been invoked before a court.

555. With regard to article 4 of the Convention, the delegation assured the Committee that it would endeavour to encourage the legislature to enact special legislation implementing that article.

556. With regard to article 5, the representative of the State party explained that, with the exception of political matters and the acquisition of nationality, aliens living in the United Arab Emirates enjoyed the same rights as nationals.

Concluding observations

557. At its 1124th meeting, held on 16 August 1995, the Committee adopted the following concluding observations.

(a) Introduction

558. Resumption of the dialogue with the State party, which had submitted no report since 1986, and the presence of a high-level delegation are noted with satisfaction. Note is also taken of the quality of the dialogue and the constructive spirit of the delegation.

559. It is noted that the State party has not made the declaration provided for in article 14 of the Convention, and members of the Committee requested that consideration should be given to the possibility of making that declaration.

(b) Positive aspects

560. The legislation adopted in accordance with the Convention since the last periodic report was submitted, in particular that concerning the right of foreign communities established in the territory of the State party to open private schools for teaching in their mother tongue and that concerning labour relations, is noted with satisfaction.

561. Appreciation is also expressed for the useful information presented orally by the delegation, including the promise that consideration would be given to introducing legislation to implement article 4 of the Convention.

562. Note is also taken of the readiness of the delegation to submit to its Government the concerns of the Committee with regard to certain inadequacies in the legislation.

(c) Principal subjects of concern

563. Owing to the inadequacy of the information contained in the report of the State party concerning legislative, judicial, administrative or other measures taken to give effect to the Convention, the Committee is unable to form an exact idea of the progress achieved in implementing the Convention.

564. It is noted with concern that the provisions of article 4 of the Convention are not reflected in the country's national legislation. It is recalled in this connection that penal legislation should contain specific provisions against racist acts.

565. Although information was provided on mother-tongue education and on access to health and work, more information is needed about the implementation of other aspects of article 5 of the Convention.

566. Keen concern was expressed as to the allegations of ill-treatment of foreign workers, including women domestic servants of foreign origin. The delegation clarified certain aspects of this question, which should nevertheless be given special attention.

567. The information provided by the State party regarding effective remedies against any acts of racial discrimination is insufficient.

(d) Suggestions and recommendations

568. The Committee requests the Government of the State party to provide in its next report the information whose absence or insufficiency has been noted.

569. The Committee recommends that the State party discharge all the obligations set out in article 4 of the Convention. The Government should to that end take into account the Committee's General Recommendation XV.

570. The Committee recommends that the State party show the utmost diligence in preventing acts of ill-treatment being committed against foreign workers, especially foreign women domestic servants, and take all appropriate measures to ensure that they are not subjected to any racial discrimination.

571. The Committee recommends that the State party ratify the amendments to article 8, paragraph 6, of the Convention, as adopted by the Fourteenth Meeting of States Parties.

572. The Committee recommends that the twelfth periodic report of the State party, due on 21 July 1997, be comprehensive.

United Republic of Tanzania

573. At its 1112th meeting, on 9 August 1995, the Committee examined the implementation of the Convention by the United Republic of Tanzania on the basis of the previous report of the State party (CERD/C/131/Add.11), its consideration by the Committee (CERD/C/SR.817) and the oral information provided by the representative of the State party (see CERD/C/SR.1112).

574. The members of the Committee welcomed the important changes that have taken place in the last several years, such as the entry into force of the amended Constitution, providing for a multi-party system, and the scheduling of the first multi-party elections for October this year. They also noted that some political and economic reforms were introduced in the country, in particular in the agricultural sector, with the aim of stimulating the overall economic growth.

575. It was noted that, though the Government asked in 1994 for the postponement of the submission of its eighth to eleventh periodic reports until the information on the recent substantive changes that occurred in the country were incorporated, no report had yet been received by the Committee. This meant that the United Republic of Tanzania had not fulfilled its obligation under article 9, paragraph 1, of the Convention. However, the presence of a representative of the State party to participate in the discussion with the Committee and the oral information he gave and the comprehensive answers

provided to the questions raised by Committee members was a welcome sign that the United Republic of Tanzania wished to continue its dialogue with the Committee.

576. It was observed that numerous ethnic communities lived in the United Republic of Tanzania, together with a large minority of Asians, though the latter seems to decrease in number. Questions were asked about the treatment of people having originally come from Zanzibar to the mainland. The official position of the Government was also noted that the Tanzanian nation has been "welded together", as stated in the State party's seventh periodic report (CERD/C/131/Add.11, para. 6). It was also noticed that the important number of refugees coming from neighbouring countries Rwanda and Burundi, this number amounting to 1.4 million according to the representative of the United Republic of Tanzania, created difficulties for the authorities, especially as regards their accommodation in the United Republic of Tanzania and their repatriation to their countries.

577. It was noted that there seemed to be some problems, mainly involving Christians and Muslims coming from different ethnic communities, relating to allegations that favouritism is being shown by the authorities towards one community, in the civil service, government posts and positions, State-owned businesses and scholarships.

578. The discussion underlined the concern about the availability of free access to courts and legal remedies in cases of alleged racial discrimination. It was stressed that the State party had not implemented the provisions of articles 4 and 6 of the Convention, which call for the adoption of positive measures to combat racial discrimination.

Concluding observations

579. At its 1124th meeting, held on 16 August 1995, the Committee adopted the following concluding observations.

(a) Principal subjects of concern

580. Concern was expressed at information about the cases of the expropriation of the lands of members of the Massaï and the Barabaïg communities, within the framework of the agricultural reforms undertaken by the Government.

581. Concern was expressed at the absence of provisions in the domestic legislation designed to implement the provisions of article 4 (a) and (b) of the Convention, and also about how the Convention as a whole was being implemented by the State party in its national legal system.

582. It was noted with concern that there were reports alleging that the Asians in the United Republic of Tanzania suffer racial discrimination, and that there were statements of discrimination between the Christian and the Muslim communities giving rise to certain concern inasmuch as it was based on ethnic differences.

(b) Suggestions and recommendations

583. The Committee recommends that the State party in its report provide information as to which measures it has taken to effectively implement the Convention in its national legal system.

584. The Committee recommends that the State party include in its next periodic report information on the changes that occurred in the recent period of time within Tanzanian political and legal order and the society at large, possibly on the demographic composition of the population in the United Republic of Tanzania, on the introduction of legislation to combat racial discrimination in accordance with article 4, and on the means available to victims of human rights violations to obtain justice and reparation in accordance with article 6 of the Convention.

585. The Committee suggests that the Government of the United Republic of Tanzania avail itself of the technical assistance which the Committee can offer under the advisory services and technical assistance programme of the Centre for Human Rights.

586. The Committee recommends that the State party ratify the amendments to article 8, paragraph 6, of the Convention, adopted by the Fourteenth Meeting of States Parties.

Sierra Leone

587. At its 1116th meeting, held on 10 August 1995 (see CERD/C/SR.1115), the Committee reviewed the implementation of the Convention by Sierra Leone based upon its previous reports (CERD/C/R.30/Add.43 and 46 and CERD/C/R.70/Add.22) and their consideration by the Committee (see CERD/C/SR.153, 159, 161, 204 and 215), together with the Committee's previous review at its 921st meeting, on 8 August 1991 (see CERD/C/SR.921 and A/46/18, paras. 279-282). The Committee once more noted that no reports had been received from the State party since 1974.

588. Members of the Committee once more recalled, in connection with those previous reports, that the Committee had considered them to be insufficient, that section 13 (4) (g) of the Constitution then in force had been deemed incompatible with article 1 (3) of the Convention and that the Committee had requested the Government to submit additional information on the implementation of the Convention.

589. The Committee understands that according to section 27 of the 1991 Constitution "no law shall make any provision that is discriminatory either of itself or in its effect", that this provision covers differential treatment "attributable wholly or mainly to their respective descriptions by race, tribe, sex, place of origin, political opinions, colour or creed", but that this provision "shall not apply" to any law "for the limitation of citizenship".

590. Members concluded that it would not be useful to reopen discussion on the basis of the previous reports, but that a communication should be sent to the State noting that an important question had been outstanding since 1974 and requesting information about constitutional and other developments.

Concluding observations

591. The Committee regrets that Sierra Leone had not responded to its invitation to participate in the meeting and to furnish relevant information. In concluding the review, the Committee decides that a communication should be sent to the Government of the reporting State setting out its reporting obligations under the Convention and urging that dialogue with the Committee should be resumed as soon as possible.

592. The Committee suggests that the Government of Sierra Leone avail itself of the technical assistance offered under the advisory services and technical assistance programme of the Centre for Human Rights.

Somalia

593. At its 1114th meeting, on 10 August 1995, the Committee reviewed the implementation of the Convention by Somalia (see CERD/C/SR.1114), after having recalled that at its 949th meeting it had decided to defer further consideration of the situation in that country. 7/

594. Members regretted that no new report was available to them and that no State representative was present.

595. Members deplored the prevailing lack of protection for human rights in Somalia. They called on the Somali people to put an end to their conflicts and to work for national reconciliation. Members regretted that, despite the advice of some regional organizations, the international community had ceased its attempts to restore peace. They expressed appreciation for the continuing contributions of humanitarian organizations. Finally, members hoped that the General Assembly would call on the Security Council and all States to halt the supply of arms to the contending parties.

596. The Committee decided to reconsider the situation in Somalia again at its forty-ninth session in August 1996, by which time it hoped to receive additional information from other United Nations bodies in touch with developments in the country.

Madagascar

597. At its 1115th meeting, held on 10 August 1995 (see CERD/C/SR.1115) the Committee commenced its review of the implementation of the Convention by Madagascar based on its previous report (CERD/C/149/Add.19) and the consideration thereof by the Committee (see CERD/C/SR.835). The Committee noted that no new report had been received since 1989. The Committee received a request from the Government of Madagascar to defer the review from the forty-seventh to a future session. That request was accepted on the understanding that the report would be submitted in time for it to be considered at the forty-eighth session of the Committee. It was decided to have transmitted to the Government a list of the Committee's principal concerns with regard to implementation of the Convention in Madagascar, and to inform the Government that the Committee expected that the issues listed would be adequately addressed in the report to be submitted. The Committee also recommended to the Government that it request technical assistance from the Programme of Advisory Services and Technical Assistance of the United Nations Centre for Human Rights.

Nigeria

598. The thirteenth periodic report of Nigeria (CERD/C/263/Add.3 and CERD/C/283) was considered by the Committee at its 1114th and 1116th meetings, held on 10 and 11 August 1995 (see CERD/C/SR.1114 and 1116).

599. The report was introduced by the representative of the State party who said that one of the major tasks facing the present administration which assumed power in November 1993 was the restoration of law and order among the diverse cultural, ethnic and linguistic groups existing in Nigeria. In doing so, the administration ensured that the fundamental human rights enshrined in the

Nigerian Constitution of 1979 were not unduly tampered with. It also intended to announce a programme of transition to democratic rule on 1 October 1995. The representative also referred to the ethnic composition of his country and to the constitutional provisions devoted to the recognition, promotion and enforcement of the rights of groups and individuals. He stated that the Federal Government had made provision for direct funding of the Local Government Councils, that it had established an Oil Mineral-Producing Areas Development Commission and that the Nigerian Investment Promotion Commission Decree of 1995 was designed to attract foreign investment into the country.

600. The representative further referred to measures taken by its Government in the educational field and for the advancement of women, and stated that under Section 39 of the 1979 Constitution, Nigerian citizens were guaranteed the enjoyment of political and civil rights without discrimination. The various rights enshrined in the Constitution were justiciable and many Nigerians sought redress in the courts of law when those rights were violated. They were entitled to legal aid to initiate proceedings. Finally, he stated that measures to ensure compliance with article 7 of the Convention included the establishment of the Technical Aid Corps Programme of the Ministry of Foreign Affairs, whereby young graduates volunteered to serve in developing countries for a given period.

601. Members of the Committee expressed appreciation for the readiness of the State party to continue the dialogue with the Committee, for its timely submission of the report, and for the high level of representation participating in the discussion. It was observed, however, that Nigeria's reporting record showed a lack of continuity in that questions asked in connection with one report had not been answered in subsequent reports. In addition, the Committee had received considerable information on the legal framework but rather little on actual practice; it was stressed that, in reporting, States parties should go beyond a list of legislative measures and should provide information on their application in practice.

602. In connection with article 1 of the Convention, members of the Committee took note of the difficulties encountered by the Federal Government of Nigeria in its efforts to promote harmony among the 250 ethnic groups living in the country, and welcomed the special measures taken or planned by the Government in that regard. They also noted that section 39 (1) of the 1979 Nigerian Constitution provided for the protection of citizens against discrimination, but did not cover non-citizens or provide protection against discriminatory actions or practices outside the governmental sector. In addition, it was observed that it was not clear which constitutional provisions were currently in force.

603. With regard to article 2 of the Convention, reference was made to numerous allegations of discrimination and other violations of human rights on grounds of ethnic origin which had been brought to the attention of the Committee by non-governmental organizations. According to those allegations, the Nigerian security forces would have committed a series of human rights abuses, including killings, torture and massive arrests, particularly against the Ogoni ethnic group; the Federal Government was alleged to have fomented ethnic antagonism and to tolerate a situation of impunity with respect to the perpetration of human rights abuses. It was therefore asked whether there had been any investigation on whether in Ogoniland unlawful orders had been given, what measures the Government had taken to consult ethnic groups about their grievances, whether there was a problem of "tribalism" in the country and, if so, what policy the Government was undertaking to mitigate it. Detailed information was also requested on the action taken recently against the Movement for the Survival of the Ogoni People and, in particular, against Mr. Ken Saro-Wiva, leader of the

Movement arrested in May 1994, and against other members of the Movement arrested in August 1995. In addition, further details were requested as to how national integration was being actively encouraged, how the Government viewed the aspirations of the various ethnic groups and the movements for their survival and what it was doing or intended to do to accommodate their views. It was further asked what measures were being taken to preserve the identity of the ethnic groups affected by the changes and deterioration of their environment, how the distribution of revenue was actually regulated and why the benefits from the use of natural resources were not equitably shared among the population as a whole and, more particularly, among the people from whose land they were extracted. It was also asked why the Nigerian Government had refused to authorize a non-governmental organization to conduct an investigation into the situation in Ogoniland in 1994. It was pointed out, in this connection, that a glaring discrepancy existed between information on the situation in Nigeria contained in the report and that provided by reliable non-governmental sources.

604. With reference to article 3 of the Convention, members of the Committee acknowledged the leading role of Nigeria in the struggle against apartheid and in its dismantling. In this connection, information was requested on what Nigeria was currently doing at the international level to honour its commitment to combat racial discrimination, and, in particular, to provide assistance in many areas of Africa for the solution of ethnic conflicts.

605. With regard to article 4 of the Convention, members of the Committee pointed out that specific penal provisions should be enacted by Nigeria in order to fully comply with the provisions of that article, and that precise information on the progress made in this regard should be included in Nigeria's next periodic report. It was asked, in particular, whether the Government had concluded its review of how to unify the Criminal Code that operated in the south and the Penal Code that operated in the north of the country, what was the status of the Convention in Nigerian domestic law and whether its articles could be invoked directly before the court.

606. With reference to article 5 of the Convention it was asked how the verdict was determined in criminal trials, whether there were complaints of ethnic bias in court proceedings, whether threats were ever made to the security of persons because of their ethnic origin and how effective was the remedy obtained in the case of discrimination in general, and discrimination in employment, in particular. More information was requested on the establishment and functioning of civil disturbances special tribunals to try certain types of offences, the judgements of which were without appeal. It was observed that because there was no avenue of appeal from the decisions of such tribunals their operation might infringe the right to equal treatment provided for by article 5 (a) of the Convention. Information was also requested on the reply of the Nigerian Government to the International Labour Organization with regard to the expulsion of Chadian workers, and on any measures that prohibit political activities and limit press freedom. Information was further requested on any plans affecting ethnic relations that might feature in the restoration of civilian rule.

607. Referring to article 6 of the Convention, members of the Committee wished to receive examples of judgements passed in application of section 39 of the 1979 Constitution relating to measures to combat racial discrimination. They also wished to know more about the circumstances in which persons had applied to a court for the redress of alleged violations of fundamental human rights, what action the Government had taken in that regard, and what was the relationship between the Federal Court of Appeal and the Shariah Court of Appeal. Information was requested on the Legal Aid Scheme and the modifications made in

it. In addition, members of the Committee wished to receive details of decrees, other enactments and court rulings relating to the punishment of violations of civil liberties and acts of racial discrimination and description of remedies available.

608. With regard to article 7 of the Convention, members of the Committee wished to know how, in practice, law enforcement officials were trained to face situations of ethnic conflict, how ethnic discrimination was avoided in their recruitment and whether they were given training in the area of human rights and the prevention of discrimination. They also wished to know how the Government intended to foster the idea of tolerance, responsibility and cooperation among ethnic groups and what was the legal status of associations representing ethnic groups.

609. In their replies, the representatives of Nigeria stated that the allegations of human rights violations perpetrated by the security forces against the Movement for the Survival of Ogoni People in general were groundless. Those members of the Movement who had been arrested were charged with criminal offences. They were part of a group which had transformed the originally peace-loving and constitutionally minded Movement into a violent one. No representatives of any organization, national or international, had been prevented from visiting Ogoniland. With regard to the question on revenue distribution, the representatives indicated that the trend was for the Federal Government's share of revenue to decrease while that of States and local governments increased. They also referred to various measures introduced by the Government to minimize environmental degradation in the areas where hydrocarbons were extracted.

610. With regard to article 4 of the Convention, the representatives referred to the committee set up by the Federal Government to review and reform the Criminal Code and assured the Committee that it would be informed of the results of the review and reform procedure.

611. Referring to article 5 of the Convention, the representatives enumerated the fundamental human rights enshrined in the 1979 Constitution which had not been suspended under military rule. They also stated that the establishment of the civil disturbances Special Tribunal had been prompted by the level of damage and the nature of the crimes committed in the north of the country. They added that the rights of the defendant were the same in all tribunals without exception. The representatives further stated that political associations recently created would have an opportunity to transform themselves into political parties in preparation for future elections, and that freedom of the press was guaranteed in the country.

612. With reference to article 6 of the Convention, the representatives indicated that under the 1979 Constitution a Public Complaints Committee and a Code of Conduct Bureau had been established, both of which were still operating and had authority to enforce their decisions. The Public Complaints Committee had wide powers to deal with allegations of unfair treatment of members of the public by civil servants as well as grievances concerning both public and private enterprises and employers.

Concluding observations

613. At its 1125th meeting, held on 17 August 1995, the Committee adopted the following concluding observations.

(a) Introduction

614. The will and the readiness of the State party to continue the dialogue with the Committee are welcomed. The regularity of the submission of reports by the State party, in accordance with article 9 (1) of the Convention is appreciated. The attendance of a high-level delegation and the further information submitted are also welcomed.

615. It is noted that the State party has not made the declaration provided for in article 14, and some members requested that the possibility of such a declaration be considered.

(b) Positive aspects

616. The recognition by the delegation of the existence in Nigeria of more than 250 groups distinguished by ethnic origin and the preoccupation of the Government to assure harmonious and peaceful relations between these groups are well noted.

617. The leading part played by Nigeria in the struggle against apartheid is acknowledged with satisfaction.

618. The Nigerian educational programmes which implement the provisions of article 7 of the Convention are welcomed.

619. Since some ethnic tensions have been associated with ecological changes, the Committee welcomed the statement on the action taken to ameliorate the ecological and developmental situation in the oil-producing areas of the country, including the establishment of the Oil Mineral Producing Areas Development Commission and the direct allocation of compensatory payments.

(c) Principal subjects of concern

620. Concern is expressed that the record of Nigeria's reporting shows that many questions raised in connection with previous reports have not been fully answered in subsequent reports.

621. It is noted that not all the grounds of discrimination listed in article 1 (1) of the Convention are covered by the Constitution and legislation of the State party.

622. Concern is expressed at the delay in introducing legislation in implementation of the provisions of article 4 of the Convention.

623. Concern is expressed that while the report and the further information describe the legal framework for action against racial discrimination, little is said about the implementation in practice of the relevant provisions.

624. Concern is expressed that in circumstances such as those of Nigeria, in which political and religious differences may easily be associated with ethnic differences, any breakdown in law and order can exacerbate ethnic tension.

625. Concern is expressed about allegations that agents of the Government have contributed to ethnic antagonisms in the course of attempts to maintain law and order, particularly in the Rivers State.

626. Concern is expressed about the training of law enforcement officials in accordance with the Committee's General Recommendation XIII.

627. Particular concern is expressed that Decree 12 (Federal Military Government Supremacy and Enforcement Decree, 1994), stating that "no act of the federal military government may be questioned henceforth in a court of law" and which ousts "courts of jurisdiction", can adversely affect proceedings invoking protection against racial discrimination.

628. Particular concern is also expressed that trial by Special Tribunals, some of them with no right of appeal, could counter the right to equality before the law, without distinction as to ethnic origin, in accordance with article 5 of the Convention.

(d) Suggestions and recommendations

629. The Committee recommends that in its next periodic report the State party should describe the actions it has taken against individuals or groups which cause disaffection against ethnic groups and to defend the rights of their members.

630. The Committee recommends that in the course of its current review of its legislation, the Government give the necessary attention to measures designed to meet the requirements of articles 1 (1) and 4 of the Convention.

631. The Committee recommends that the Government review the effectiveness of the protection it provides against racial discrimination in the enjoyment of civil, political, economic, social and cultural rights in accordance with article 5 of the Convention.

632. The Committee recommends that the State party investigate situations of ethnic disorder and the causes thereof, including any possible unlawful orders, with a view to taking the necessary remedial measures in accordance with the Convention and to ensure that no one can act with impunity in these circumstances.

633. The Committee recommends that the Government, when promoting projects of economic development, undertake the necessary measures to effectively protect the identity of ethnic groups in the areas concerned.

634. The Committee recommends that the Government review the effectiveness of the recourse measures which should be available to all persons within their jurisdiction in accordance with article 6.

635. The Committee recommends that the State party ratify the amendments to article 8, paragraph 6, of the Convention, adopted by the Fourteenth Meeting of States Parties.

636. The Committee recommends that the State party's fourteenth periodic report, due on 5 January 1996, be submitted in due time.

Chad

637. The fifth, sixth, seventh, eighth and ninth periodic reports of Chad, grouped together to form a single document (CERD/C/259/Add.1), were considered by the Committee at its 1119th meeting, held on 14 August 1995 (see CERD/C/SR.1119).

638. The representative of the State party supplemented the report orally to a substantial extent. The representative explained that for several decades his country had experienced a series of crises characterized by political instability, the stifling of freedom and an infernal spiral of violence that had led to the total disruption of the State apparatus.

639. The representative pointed out that the Sovereign National Conference had drawn up a National Transitional Charter whose basic principles were the defence of human rights and public freedoms, the establishment of true democracy based on the separation of powers, multi-party politics and free trade unions and print media. In that context of growing awareness of individual rights and fundamental freedoms and of each person's duties towards society, the National Commission on Human Rights had been established in September 1994. It was also to be noted that non-governmental human rights organizations had been legally recognized and a large number of international and regional human rights instruments had been ratified. Such instruments took precedence over domestic laws in the domestic legal order.

640. The population of Chad consisted of some 200 ethnic groups that fell into 12 major groups.

641. The representative, commenting on the implementation of articles 2 and 5 of the Convention, said that all Chadian citizens, without distinction as to race origin or religion, enjoyed the right to bring legal proceedings, the right to security of person, the right to freedom of movement and residence, the right to leave the country and to return to it freely, the right to nationality, the right to marriage, the right to own property, the right to freedom of conscience and religion and to freedom of association, the right to work, the right to form and join a trade union, the right to take part in the country's cultural life, and the right of access to any place or service intended for use by the general public.

642. Concerning article 6 of the Convention, the representative said that there was no special judicial or administrative procedure ensuring protection against acts of racial discrimination but that anyone who had been a victim of such acts could always bring criminal indemnification proceedings.

643. The members of the Committee welcomed the presence of the Chadian delegation, despite the country's domestic difficulties and the absence of permanent representation in Geneva, and expressed their appreciation of its oral presentation which had very extensively supplemented the periodic report, thereby constituting practically an additional periodic report. The members of the Committee regretted, however, that the report had not been drawn up in accordance with the Committee's consolidated guidelines on reporting.

644. Commenting on the general context in which the implementation of the Convention had to be considered, the members of the Committee expressed utmost concern at information about serious human rights violations occurring in the State party. Such varied sources as the most recent reports to the Commission on Human Rights by the Special Rapporteur on extrajudicial, summary or arbitrary executions (E/CN.4/1995/61 and E/CN.4/1995/111), the report by the Working Group of the Commission on Human Rights on Enforced or Involuntary Disappearances (E/CN.4/1995/36), the report of the Secretary-General to the Commission on Human Rights on persons belonging to national or ethnic, religious and linguistic minorities (E/CN.4/1995/84), the 1995 report of the Committee of Experts on the application of ILO Conventions, the observations by the Subcommission on Prevention of Discrimination and Protection of Minorities and various reports by

Amnesty International, the International League for the Rights of Man and the Chadian League for Human Rights, attested to summary executions, arbitrary arrests, disappearances, extrajudicial detention, torture, and the harassment and intimidation of members of non-governmental organizations working for human rights.

645. The members of the Committee stressed the largely ethnic character of the violence characterizing the domestic situation of the State party. Most of the armed conflict rife in Chad was linked to ethnic issues. Accordingly, the Special Rapporteur on extrajudicial, summary or arbitrary executions, in an urgent appeal to the Chadian Government on 26 August 1994, had expressed particular concern over information concerning the execution of members of ethnic minorities. Numerous abuses against civilians, committed by members of the Republican Guard belonging to the same ethnic group as the President of the Republic, were also reported. The members of the Committee once again deplored the continuing impunity enjoyed by the perpetrators of such acts and the inoperativeness of the judicial system.

646. According to the sources of information mentioned in paragraph 644 above, ethnic minorities close to power, representing roughly 1 per cent of the population, exercised a predominant influence over appointments and the decision-making process in the army and the administration. Furthermore, the widening gap between the north and the south of the country was reflected even in the capital where entire districts were said to have been formed composed of people from the north or from the south. The members of the Committee reiterated their request for precise socio-economic data in respect of each major ethnic group.

647. Following those remarks, the members of the Committee expressed a desire to have precise information regarding the following points: regarding the general section of the report, what texts had finally been adopted after the beginning of the process of national reconciliation? What was the position regarding the reform of the Constitution, the proposed adoption of an electoral code, the Amnesty Act and the Human Rights Violations Compensation Act? What reforms had been adopted and implemented to reorganize the security forces and the national police force and to strengthen the judicial system and protect its independence? At what date could it be expected that presidential elections would actually be held? What means of action were actually available to the National Commission on Human Rights? Had it started operating?

648. In that worrying national context, the members of the Committee nevertheless noted a few encouraging points, such as the recognition of non-governmental human rights organizations, some improvement in the exercise of freedom of opinion and expression and the emergence of a free press.

649. Concerning article 4 of the Convention, members of the Committee recalled their request for information as to the existence of legislative provisions recognizing as an offence and punishing acts of racial discrimination within the meaning of article 1 of the Convention.

650. Information was requested about the measures taken by the Government to guarantee the effective exercise of remedies through the courts, which should be available to the victims of acts of discrimination, enabling them to obtain punishment and effective reparation for such acts, in accordance with article 6 of the Convention. Members of the Committee reiterated in that connection their concern regarding reports from non-governmental organizations of government and army interference in the operation of justice, even entailing threats against

magistrates, lack of training and a persistent shortage of resources from which all the judiciary personnel were suffering and which was paralysing the institution.

651. The members of the Committee reiterated their request for information as to the measures taken, in accordance with article 7 of the Convention, to help the various ethnic communities culturally, educationally and socially and to promote education to combat racial discrimination. In that connection the members of the Committee expressed their concern about reports they had received that members of the "National Civic Campaign", a movement launched by several human rights organizations in order to educate the population, particularly with a view to the next elections, had been the victims of harassment and intimidation.

652. The members of the Committee again suggested that the State party, in that difficult context, appeal to the United Nations Centre for Human Rights for technical assistance. It was also suggested that the oral presentation of the representative of the State party be published in the form of an addition to the periodic report.

Concluding observations

653. At its 1125th meeting, held on 17 August 1995, the Committee adopted the following concluding observations.

(a) Introduction

654. The Committee observed with satisfaction the desire of the Government of the State party and its delegation to renew its dialogue with the Committee, despite the grave domestic problems confronting Chad. It regretted the fact that the fifth, sixth, seventh and eighth reports had not been submitted within the specified times and that the ninth periodic report was extremely brief and did not comply with the Committee's guidelines for the preparation of reports or the provisions of the Convention. It was, however, pleased that the oral presentation by the delegation of the State party - markedly better than the written report - very extensively supplemented the periodic report.

655. It was noted that the State party had not made the declaration provided for in article 14 of the Convention, and members of the Committee requested that consideration should be given to the possibility of making such a declaration.

(b) Positive aspects

656. The extensive additional information provided in the delegation's oral presentation, both on institutional matters and on the breakdown of the population and the country's leading socio-economic indicators, was particularly appreciated. As a result, the delegation was requested to circulate the text of its oral presentation as a supplementary report.

657. The Committee noted Chad's admission to its territory of several non-governmental human rights organizations, and an improvement in the exercise of freedom of expression, in the press and elsewhere. It also considered highly encouraging the recent ratification of a number of international human rights conventions.

(c) Principal subjects of concern

658. Concern was expressed about the allegations of serious human rights violations in the State party, including violations of the Convention. Concern was also expressed at the paralysis of the judiciary, associated with the lack of resources allocated to the courts, the inadequate training given to judges and political interference.

659. Other causes for concern related to the ethnic aspect of the human rights violations, the predominant influence of certain ethnic minorities close to the State within the administration and the army, and the growing antagonism between the north and south of the country.

660. The information given on the socio-economic situation of the population was considered inadequate in the ninth periodic report but much fuller in the delegation's oral presentation.

661. The written report also failed to provide enough information on the existence of legislation giving effect to article 4 of the Convention.

662. As regards the implementation of article 6 of the Convention, the report had not enlightened the Committee as to the steps taken to ensure the effective use of remedies so that victims of racial or ethnic discrimination could secure the punishment of discriminatory acts and compensation for the injury caused.

(d) Suggestions and recommendations

663. The Committee recommends the State party to provide in its next report, due on 16 September 1996, fuller information on the practical implementation of the Convention and to supply written replies to the questions raised orally during the consideration of the report of Chad, including information on the ethnic characteristics of the population, in accordance with paragraph 8 of the guidelines for the preparation of reports.

664. More precise information was requested on the reforms undertaken following the National Conference intended to begin the process of national reconciliation: the constitutional reform, the draft electoral code, the amnesty act, the law on compensation for victims of human rights violations, the reorganization of the security forces and national gendarmerie, and the strengthening of the judicial apparatus.

665. The next report should also inform the Committee of the actual lines of action open to the National Commission on Human Rights and its activities in terms of the implementation of the Convention.

666. The Committee strongly recommends the State party to make every effort to ensure that the system of justice functions properly, since that is a necessary condition for a return to the rule of law. Help in arranging a solid training programme for judges should be sought from the United Nations Centre for Human Rights.

667. The Committee considers it to be of the utmost importance to set up a training programme in humanitarian law and human rights for members of the armed forces, the police, the national gendarmerie and other State employees. Assistance could be sought from the United Nations Centre for Human Rights and the International Committee of the Red Cross.

668. The Committee recommends the State party to ratify the amendments to article 8, paragraph 6, of the Convention adopted by the Fourteenth Meeting of States Parties.

B. Statement concerning Israel adopted by the Committee at its forty-sixth session

669. In a note verbale presented by the Permanent Representative of Israel to the Secretary-General of the United Nations dated 6 October 1994, surprise is expressed concerning the Committee's regret that Israel "has not submitted the urgent report the Committee requested in its decision 1 (44) of 7 March 1994". In this connection Israel drew attention to the materials it submitted on 30 June 1994 and to supplementary information supplied on 8 August 1994, and requested that these materials be published as Israel's report to the Committee.

670. In reply, the Committee sent a letter to the Government of Israel containing the following elements.

(a) The paragraph quoted by Israel from the Committee's concluding observations reads in full: "while the Committee acknowledges the information it has received from Israel through the Secretary-General, the Committee regrets that Israel has not submitted the urgent report the Committee requested in its decision 1 (44) of 7 March 1994"; 8/

(b) On 31 March 1994 the Permanent Mission of Israel informed the Secretary-General that it had established an inquiry committee with respect to the massacre at the Tomb of the Patriarchs in Hebron and that a copy of the report of the inquiry committee would be made available to the Committee as a matter of courtesy and without prejudice to the competence of the Committee in the matter;

(c) On the basis of this qualification by Israel itself of the materials supplied, the Committee had good reason to assume that these materials did not constitute the urgent report the Committee had requested. The Committee's assumption was confirmed by the fact that Israel preferred to be absent when the question was discussed by the Committee;

(d) Now that Israel has indicated that it wishes to see that the materials supplied to the Committee be treated as the urgent report requested by the Committee, the Committee is ready to consider these materials on the same footing as urgent reports requested from other States parties;

(e) Recalling the final paragraph of the concluding observations adopted by the Committee on 18 August 1994, 9/ the Government of Israel is again requested to expedite its seventh and eighth periodic reports, due on 2 February 1992 and 1994 respectively, and to include in them a further response to the observations in question. They should be submitted in time for consideration at the Committee's forty-seventh session.

IV. CONSIDERATION OF COMMUNICATIONS UNDER ARTICLE 14 OF THE CONVENTION

671. Under article 14 of the International Convention on the Elimination of All Forms of Racial Discrimination, individuals or groups of individuals who claim that any of their rights enumerated in the Convention have been violated by a State party and who have exhausted all available domestic remedies may submit written communications to the Committee on the Elimination of Racial Discrimination for consideration. A list of the States parties which have made the declaration to permit the consideration of such communications can be found in annex I.B to the present report.

672. Consideration of communications under article 14 of the Convention takes place in closed meetings (rule 88 of the Committee's rules of procedure). All documents pertaining to the work of the Committee under article 14 (submissions from the parties and other working documents of the Committee) are confidential.

673. The Committee began its work under article 14 of the Convention at its thirtieth session, in 1984. At its thirty-sixth session (August 1988), the Committee adopted its opinion on communication No. 1/1984 (Yilmaz-Dogan v. the Netherlands). 10/ During its thirty-ninth session, on 18 March 1991, the Committee adopted its opinion on communication No. 2/1989 (Demba Talibe Diop v. France). 11/ At its forty-second session, on 16 March 1993, the Committee, acting under rule 94, paragraph 7, of its rules of procedure, declared admissible and adopted its opinion on communication No. 4/1991 (L. K. v. the Netherlands). 12/ At its forty-fourth session, on 15 March 1994, the Committee adopted its opinion on communication No. 3/1991 (Michel L. N. Narrainen v. Norway. 13/

674. Under article 14, paragraph 8, of the Convention, the Committee shall include in its annual report a summary of the communications considered by it and of the explanations and statements of the States parties concerned, together with the Committee's own suggestions and recommendations thereon. This reporting stage has not yet been reached in respect of communications Nos. 6/1995 and 7/1995, which were placed before the Committee at its forty-seventh session, in August 1995, and which were sent to the State party concerned under rule 92 of the Committee's rules of procedure.

675. On 15 March 1995, the Committee declared inadmissible communication No. 5/1994 (C. P. v. Denmark). The communication concerned an American citizen of African origin living in Denmark since 1963, who complained that he and his son had been the victims of racial discrimination by the police and municipal authorities of Roskilde and by the domestic judicial authorities. In September 1990, C. P. had been elected shop steward at the Technical School of Roskilde; in October 1990, students allegedly began to display signs of racial hostility towards him, but the authorities did not intervene. Three months later, he was told to leave his work area immediately for another post, and in May 1991, after what he referred to as "months of harassment", he was dismissed by the school.

676. As to events concerning his son, C. P. submitted that four adolescents had insulted and severely beaten his then 15-year-old son. The local police allegedly were reluctant to investigate the incident thoroughly. The author contends that the court proceedings against his son's aggressors were biased, and that the defendants were allowed to "distort" evidence in court.

677. In respect of proceedings related to the author's dismissal, the Committee noted that C. P.'s lawyer had been privately retained. Thus, the lawyer's inaction or negligence to appeal the judgement at first instance in the case to a higher court within statutory deadlines could not be attributed to the State party. Since the author had failed to provide prima facie evidence that the judicial proceedings had been tainted by racially discriminatory considerations, and since it was C. P.'s own responsibility to pursue all available domestic remedies, the Committee concluded that the requirements of article 14, paragraph 7 (a), of the Convention had not been met.

678. As to the proceedings concerning the aggression against the author's son, the Committee noted that the police authorities of Roskilde had taken the aggressors into custody after the author had reported the incident, and that the Chief Constable of Roskilde had requested that they be criminally prosecuted. It further observed that the fact that one of the accused was the son of a court clerk had been duly taken into consideration in that the authorities had nominated a substitute judge from another venue to sit on the case.

679. On the basis of these findings, the Committee concluded that there was no evidence that either the police investigation or the judicial proceedings before the court of Roskilde or the Eastern Division of the High Court of Denmark were tainted by racially discriminatory considerations. This part of the communication thus was equally deemed inadmissible.

680. For the text of the Committee's decision on communication No. 5/1994, see annex VIII.

V. CONSIDERATION OF COPIES OF PETITIONS, COPIES OF REPORTS AND OTHER INFORMATION RELATING TO TRUST AND NON-SELF-GOVERNING TERRITORIES AND TO ALL OTHER TERRITORIES TO WHICH GENERAL ASSEMBLY RESOLUTION 1514 (XV) APPLIES, IN CONFORMITY WITH ARTICLE 15 OF THE CONVENTION

681. Under article 15 of the Convention, the Committee is empowered to consider copies of petitions, copies of reports and other information relating to Trust and Non-Self-Governing Territories and to all other territories to which General Assembly resolution 1514 (XV) applies, transmitted to it by the competent bodies of the United Nations, and to submit to them and to the General Assembly its expressions of opinion and recommendations relating to the principles and objectives of the Convention in those Territories.

682. At its 1994 session, the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples continued to follow the work of the Committee on the Elimination of Racial Discrimination. The Special Committee also continued to monitor related developments in the Territories, having regard to the relevant provisions of article 15 of the International Convention on the Elimination of All Forms of Racial Discrimination. 14/

683. As a result of earlier decisions of the Trusteeship Council and the Special Committee, the Secretary-General transmitted to the Committee at its forty-sixth and forty-seventh sessions the documents listed in annex V to the present report.

684. At its 1126th meeting, on 17 August 1995, the Committee decided to take note of the relevant documentation and information submitted to it under article 15 of the Convention and to make the following observations:

> "The Committee once again finds it impossible to fulfil its functions under article 15, paragraph 2 (a), of the Convention, due to the total absence of any copies of petitions as provided therein. Furthermore, the Committee found that there was no valid information concerning legislative, judicial, administrative or other measures directly related to the principles and objectives of this Convention and, therefore, reiterates its request that it be furnished with the material expressly referred to in article 15 of the Convention so that it will be able to fulfil its functions."

VI. ACTION BY THE GENERAL ASSEMBLY AT ITS FORTY-NINTH SESSION

685. The Committee considered this item at its forty-sixth session. For its consideration of the item, the Committee had before it the following documents:

(a) General Assembly resolution 49/145, Report of the Committee on the Elimination of Racial Discrimination;

(b) General Assembly resolution 49/178, Effective implementation of international instruments on human rights, including reporting obligations under international instruments on human rights;

(c) Note by the Secretary-General transmitting to the General Assembly the report of the fifth meeting of persons chairing the human rights treaty bodies (A/49/537);

(d) Report of the United Nations High Commissioner for Human Rights concerning the implementation of human rights instruments; 15/

(e) Relevant summary records of the Third Committee (A/C.3/49/SR.3-8, 17, 22, 33-36, 43, 47, 50, 60, 65, 66);

(f) Reports of the Third Committee (A/49/604 and A/49/604/Add.1).

A. Annual report submitted by the Committee on the Elimination of Racial Discrimination under article 9, paragraph 2, of the Convention

686. Members of the Committee noted the renewed support by the General Assembly for the Committee's early-warning and prevention procedures and appreciation was expressed for the commendation for this procedure contained in General Assembly resolution 49/145. Note was also taken of the general support of member States for the work of the Committee and for their acknowledgement of its important role in combating racial discrimination. Committee members welcomed the encouragement directed by the General Assembly to States which had not yet done so to ratify the Convention and the amendments concerning funding of the Committee.

B. Effective implementation of international instruments on human rights, including reporting obligations under international instruments on human rights

687. Members of the Committee took note of and welcomed General Assembly resolution 49/178, by which the Assembly requested the Secretary-General to finance, as of 1995, annual meetings of the persons chairing the human rights treaty bodies. Members also welcomed the appreciation expressed for initiatives taken by treaty bodies to elaborate early-warning measures and urgent procedures, and note was taken of the recommendation that the treaty bodies bring situations of massive violations of human rights to the attention of the United Nations High Commissioner for Human Rights, as well as the Secretary-General.

VII. SUBMISSION OF REPORTS BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION

A. Reports received by the Committee

688. At its thirty-eighth session, in 1988, the Committee decided to accept the proposal of the States parties that States parties submit a comprehensive report every four years and a brief updating report in the two-year interim. Table 1 lists reports received from 15 August 1994 to 18 August 1995.

Table 1. Reports received during the period under review (15 August 1994-18 August 1995)

State party	Type of report	Date on which the report was due	Document number
Belarus	Eleventh report	7 May 1990	CERD/C/263/Add.4
	Twelfth report	7 May 1992	
	Thirteenth report	7 May 1994	
Bolivia	Eighth report	21 October 1985	CERD/C/281/Add.1
	Ninth report	21 October 1987	
	Tenth report	21 October 1989	
	Eleventh report	21 October 1991	
	Twelfth report	21 October 1993	
Chad	Fifth report	16 September 1986	CERD/C/259/Add.1
	Sixth report	16 September 1988	
	Seventh report	16 September 1990	
	Eighth report	16 September 1992	
	Ninth report	16 September 1994	
Colombia	Sixth report	2 October 1992	CERD/C/257/Add.1
	Seventh report	2 October 1994	
Denmark	Tenth report	8 January 1991	CERD/C/280/Add.1
	Eleventh report	8 January 1993	
	Twelfth report	8 January 1995	
El Salvador	Third report	30 December 1984	CERD/C/258/Add.1
	Fourth report	30 December 1986	
	Fifth report	30 December 1988	
	Sixth report	30 December 1990	
	Seventh report	30 December 1992	
	Eighth report	30 December 1994	
Finland	Eleventh report	16 August 1991	CERD/C/240/Add.2
	Twelfth report	16 August 1993	
Hungary	Eleventh report	5 January 1990	CERD/C/263/Add.6
	Twelfth report	5 January 1992	
	Thirteenth report	5 January 1994	
Italy	Eighth report	4 February 1991	CERD/C/237/Add.1
	Ninth report	4 February 1993	

State party	Type of report	Date on which the report was due	Document number
Mexico a/	Ninth report	22 March 1992	CERD/C/260/Add.1
	Tenth report	22 March 1994	
	Additional information	31 July 1995	CERD/C/286
Namibia b/	Second report	11 December 1985	CERD/C/153/Add.1
	Third report	11 December 1987	
New Zealand	Tenth report	22 December 1991	CERD/C/239/Add.3
	Eleventh report	22 December 1993	
Nicaragua	Fifth report	17 March 1987	CERD/C/277/Add.1
	Sixth report	17 March 1989	
	Seventh report	17 March 1991	
	Eighth report	17 March 1993	
	Ninth report	17 March 1995	
Nigeria	Thirteenth report	5 January 1994	CERD/C/263/Add.3
	Additional information		CERD/C/286
	Additional information		CERD/C/287
Romania	Ninth report	14 October 1987	CERD/C/210/Add.4
	Tenth report	14 October 1989	
	Eleventh report	14 October 1991	
United Kingdom of Great Britain and Northern Ireland	Thirteenth report	5 April 1994	CERD/C/263/Add.7
Venezuela	Tenth report	5 January 1988	
	Eleventh report	5 January 1990	
	Twelfth report	5 January 1992	
	Thirteenth report	5 January 1994	
Zaire	Third report	21 May 1981	CERD/C/237/Add.2
	Fourth report	21 May 1983	
	Fifth report	21 May 1985	
	Sixth report	21 May 1987	
	Seventh report	21 May 1989	
	Eighth report	21 May 1991	
	Ninth report	21 May 1993	
Zimbabwe	Initial report	12 June 1992	CERD/C/217/Add.1

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a/ Submitted in compliance with a decision of the Committee taken at its forty-sixth session, in 1995.

b/ The United Nations Council for Namibia acceded to the International Convention on the Elimination of All Forms of Racial Discrimination on behalf of Namibia on 11 November 1982. The second and third periodic reports, due in 1985 and 1987 respectively, submitted in one document (CERD/C/153/Add.1) by the United Nations Council for Namibia, are pending consideration by the Committee. The fourth, fifth and sixth reports, due in 1989, 1991 and 1993 respectively, have not yet been received.

B. Reports not yet received by the Committee

689. Table 2 lists reports which were due before the end of the forty-seventh session but which have not yet been received.

Table 2. Reports due before the closing date of the forty-seventh session (18 August 1995) but which have not yet been received

State party	Type of report	Date on which the report was due	Number of reminders sent
Afghanistan	Second report	18 May 1986	7
	Third report	18 May 1988	5
	Fourth report	18 May 1990	5
	Fifth report	18 May 1992	2
	Sixth report	18 May 1994	1
Algeria	Eleventh report	15 March 1993	-
	Twelfth report	15 March 1995	-
Antigua and Barbuda	Initial report	25 October 1989	2
	Second report	25 October 1991	2
	Third report	25 October 1993	1
Argentina	Eleventh report	5 January 1990	2
	Twelfth report	5 January 1992	2
	Thirteenth report	5 January 1994	1
Armenia	Initial report	23 July 1994	-
Australia	Tenth report	30 October 1994	-
Austria	Eleventh report	8 June 1993	-
	Twelfth report	8 June 1995	-
Bahamas	Fifth report	5 August 1984	9
	Sixth report	5 August 1986	5
	Seventh report	5 August 1988	3
	Eighth report	5 August 1990	3
	Ninth report	5 August 1992	2
	Tenth report	5 August 1994	1
Bahrain	Initial report	26 April 1991	1
	Second report	26 April 1993	1
	Third report	26 April 1995	-
Bangladesh	Seventh report	11 July 1992	1
	Eighth report	11 July 1994	1
Barbados	Eighth report	10 December 1987	5
	Ninth report	10 December 1989	5
	Tenth report	10 December 1991	2
	Eleventh report	10 December 1993	1

State party	Type of report	Date on which the report was due	Number of reminders sent
Belgium	Ninth report	6 September 1992	1
	Tenth report	6 September 1994	1
Bosnia and Herzegovina a/	Initial report	16 July 1994	-
Botswana	Sixth report	22 March 1985	9
	Seventh report	22 March 1987	6
	Eighth report	22 March 1989	4
	Ninth report	22 March 1991	3
	Tenth report	22 March 1993	1
	Eleventh report	22 March 1995	-
Brazil	Tenth report	5 January 1988	5
	Eleventh report	5 January 1990	5
	Twelfth report	5 January 1992	2
	Thirteenth report	5 January 1994	1
Bulgaria	Twelfth report	5 January 1992	1
	Thirteenth report	5 January 1994	1
Burkina Faso	Sixth report	18 August 1985	8
	Seventh report	18 August 1987	4
	Eighth report	18 August 1989	4
	Ninth report	18 August 1991	2
	Tenth report	18 August 1993	1
Burundi	Seventh report	26 November 1990	1
	Eighth report	26 November 1992	1
	Ninth report	26 November 1994	-
Cambodia	Second report	28 December 1986	6
	Third report	28 December 1988	5
	Fourth report	28 December 1990	2
	Fifth report	28 December 1992	1
	Sixth report	28 December 1994	-
Cameroon	Tenth report	24 July 1990	2
	Eleventh report	24 July 1992	2
	Twelfth report	24 July 1994	1
Cape Verde	Third report	2 November 1984	9
	Fourth report	2 November 1986	6
	Fifth report	2 November 1988	4
	Sixth report	2 November 1990	3
	Seventh report	2 November 1992	1
	Eighth report	2 November 1994	-
Central African Republic	Eighth report	14 April 1986	7
	Ninth report	14 April 1988	5
	Tenth report	14 April 1990	5
	Eleventh report	14 April 1992	2
	Twelfth report	14 April 1994	1

State party	Type of report	Date on which the report was due	Number of reminders sent
Chile	Eleventh report	20 November 1992	1
	Twelfth report	20 November 1994	-
China	Fifth report	28 January 1991	1
	Sixth report	28 January 1993	1
	Seventh report	28 January 1995	-
Congo	Initial report	10 August 1989	2
	Second report	10 August 1991	2
	Third report	10 August 1993	1
Costa Rica	Twelfth report	5 January 1992	1
	Thirteenth report	5 January 1994	1
Côte d'Ivoire	Fifth report	4 February 1982	14
	Sixth report	4 February 1984	10
	Seventh report	4 February 1986	6
	Eighth report	4 February 1988	3
	Ninth report	4 February 1990	3
	Tenth report	4 February 1992	2
	Eleventh report	4 February 1994	1
Croatia b/	Initial report	8 October 1992	1
	Second report	8 October 1994	1
Cuba	Tenth report	16 March 1991	1
	Eleventh report	16 March 1993	1
	Twelfth report	16 March 1995	-
Czech Republic	Initial report	1 January 1994	-
Dominican Republic	Fourth report	24 June 1990	2
	Fifth report	24 June 1992	2
	Sixth report	24 June 1994	1
Ecuador	Thirteenth report	5 January 1994	-
Egypt	Thirteenth report	5 January 1994	-
Estonia	Initial report	20 November 1992	-
	Second report	20 November 1994	-
Ethiopia	Seventh report	25 July 1989	2
	Eighth report	25 July 1991	2
	Ninth report	25 July 1993	1
Fiji	Sixth report	11 January 1984	9
	Seventh report	11 January 1986	5
	Eighth report	11 January 1988	3
	Ninth report	11 January 1990	3
	Tenth report	11 January 1992	2
	Eleventh report	11 January 1994	1

State party	Type of report	Date on which the report was due	Number of reminders sent
France	Twelfth report	27 August 1994	-
Gambia	Second report	28 January 1982	14
	Third report	28 January 1984	10
	Fourth report	28 January 1986	6
	Fifth report	28 January 1988	3
	Sixth report	28 January 1990	3
	Seventh report	28 January 1992	2
	Eighth report	28 January 1994	1
Gabon	Second report	30 March 1983	11
	Third report	30 March 1985	7
	Fourth report	30 March 1987	4
	Fifth report	30 March 1989	3
	Sixth report	30 March 1991	2
	Seventh report	30 March 1993	1
	Eighth report	30 March 1995	-
Germany	Thirteenth report	15 June 1994	-
Ghana	Twelfth report	5 January 1992	1
	Thirteenth report	5 January 1994	1
Greece	Twelfth report	7 August 1993	-
Guinea	Second report	13 April 1980	17
	Third report	13 April 1982	13
	Fourth report	13 April 1984	9
	Fifth report	13 April 1986	4
	Sixth report	13 April 1988	3
	Seventh report	13 April 1990	3
	Eighth report	13 April 1992	2
	Ninth report	13 April 1994	1
Guyana	Initial report	17 March 1978	21
	Second report	17 March 1980	17
	Third report	17 March 1982	13
	Fourth report	17 March 1984	10
	Fifth report	17 March 1986	6
	Sixth report	17 March 1988	3
	Seventh report	17 March 1990	3
	Eighth report	17 March 1992	2
	Ninth report	17 March 1994	1
Haiti	Tenth report	18 January 1992	1
	Eleventh report	18 January 1994	1
Holy See	Thirteenth report	5 January 1994	
India	Tenth report	5 January 1988	5
	Eleventh report	5 January 1990	5
	Twelfth report	5 January 1992	2
	Thirteenth report	5 January 1994	1

State party	Type of report	Date on which the report was due	Number of reminders sent
Iran (Islamic Republic of)	Thirteenth report	5 January 1994	-
Iraq	Eleventh report	15 February 1991	1
	Twelfth report	15 February 1993	1
	Thirteenth report	15 February 1995	-
Israel c/	Seventh report	2 February 1992	1
	Eighth report	2 February 1994	1
Italy	Tenth report	2 February 1995	-
Jamaica	Eighth report	5 July 1986	7
	Ninth report	5 July 1988	5
	Tenth report	5 July 1990	5
	Eleventh report	5 July 1992	2
	Twelfth report	5 July 1994	1
Jordan	Ninth report	30 June 1991	1
	Tenth report	30 June 1993	1
Kuwait	Thirteenth report	5 January 1994	-
Lao People's Democratic Republic	Sixth report	24 March 1985	8
	Seventh report	24 March 1987	5
	Eighth report	24 March 1989	4
	Ninth report	24 March 1991	2
	Tenth report	24 March 1993	1
	Eleventh report	24 March 1995	-
Latvia	Initial report	14 May 1993	-
	Second report	14 May 1995	-
Lebanon	Sixth report	12 December 1982	12
	Seventh report	12 December 1984	8
	Eighth report	12 December 1986	5
	Ninth report	12 December 1988	3
	Tenth report	12 December 1990	2
	Eleventh report	12 December 1992	1
	Twelfth report	12 December 1994	-
Lesotho	Seventh report	4 December 1984	9
	Eighth report	4 December 1986	6
	Ninth report	4 December 1988	4
	Tenth report	4 December 1990	3
	Eleventh report	4 December 1992	1
	Twelfth report	4 December 1994	-

State party	Type of report	Date on which the report was due	Number of reminders sent
Liberia	Initial report	5 December 1977	21
	Second report	5 December 1979	17
	Third report	5 December 1981	13
	Fourth report	5 December 1983	10
	Fifth report	5 December 1985	6
	Sixth report	5 December 1987	3
	Seventh report	5 December 1989	3
	Eighth report	5 December 1991	2
	Ninth report	5 December 1993	1
Libyan Arab Jamahiriya	Eleventh report	5 January 1990	2
	Twelfth report	5 January 1992	2
	Thirteenth report	5 January 1994	1
Madagascar	Tenth report	8 March 1988	5
	Eleventh report	8 March 1990	5
	Twelfth report	8 March 1992	2
	Thirteenth report	8 March 1994	1
Mali	Seventh report	15 August 1987	5
	Eighth report	15 August 1989	5
	Ninth report	15 August 1991	3
	Tenth report	15 August 1993	1
Maldives	Fifth report	24 May 1993	-
	Sixth report	24 May 1995	-
Malta	Tenth report	26 June 1990	2
	Eleventh report	26 June 1992	2
	Twelfth report	26 June 1994	1
Mauritania	Initial report	12 January 1990	2
	Second report	12 January 1992	2
	Third report	13 January 1994	1
Mauritius	Eighth report	29 June 1987	6
	Ninth report	29 June 1989	5
	Tenth report	29 June 1991	3
	Eleventh report	29 June 1993	1
Mongolia	Eleventh report	4 September 1990	1
	Twelfth report	4 September 1992	1
	Thirteenth report	4 September 1994	1
Morocco	Twelfth report	17 January 1994	-
Mozambique	Second report	18 May 1986	7
	Third report	18 May 1988	5
	Fourth report	18 May 1990	5
	Fifth report	18 May 1992	2
	Sixth report	18 May 1994	1

State party	Type of report	Date on which the report was due	Number of reminders sent
Namibia	Fourth report	11 December 1989	2
	Fifth report	11 December 1991	2
	Sixth report	11 December 1993	1
Nepal	Ninth report	1 March 1988	5
	Tenth report	1 March 1990	5
	Eleventh report	1 March 1992	2
	Twelfth report	1 March 1994	1
Netherlands	Tenth report	9 January 1991	1
	Eleventh report	9 January 1993	1
	Twelfth report	9 January 1995	-
Niger	Eleventh report	5 January 1990	2
	Twelfth report	5 January 1992	2
	Thirteenth report	5 January 1994	1
Norway	Twelfth report	6 September 1993	-
	Thirteenth report	6 September 1995	-
Pakistan	Tenth report	5 January 1988	5
	Eleventh report	5 January 1990	5
	Twelfth report	5 January 1992	2
	Thirteenth report	5 January 1994	1
Panama	Tenth report	5 January 1988	5
	Eleventh report	5 January 1990	5
	Twelfth report	5 January 1992	2
	Thirteenth report	5 January 1994	1
Papua New Guinea	Second report	25 February 1985	9
	Third report	25 February 1987	6
	Fourth report	25 February 1989	4
	Fifth report	25 February 1991	3
	Sixth report	25 February 1993	1
	Seventh report	25 February 1995	-
Peru	Twelfth report	30 October 1994	-
Philippines	Eleventh report	5 January 1990	2
	Twelfth report	5 January 1992	2
	Thirteenth report	5 January 1994	1
Poland	Thirteenth report	5 January 1994	-
Portugal	Fifth report	23 September 1991	1
	Sixth report	23 September 1993	1
Qatar	Ninth report	16 May 1993	-
	Tenth report	16 May 1995	-
Republic of Korea	Eighth report	4 January 1994	-

State party	Type of report	Date on which the report was due	Number of reminders sent
Republic of Moldova	Initial report	25 February 1994	-
Romania	Twelfth report	14 October 1993	-
Russian Federation	Twelfth report	5 March 1992	1
	Thirteenth report	5 March 1994	1
Rwanda	Eighth report	16 May 1990	2
	Ninth report	16 May 1992	2
	Tenth report	16 May 1994	1
Saint Lucia	Initial report	14 February 1991	1
	Second report	14 February 1993	1
	Third report	14 February 1995	-
Saint Vincent and the Grenadines	Second report	9 December 1984	9
	Third report	9 December 1986	6
	Fourth report	9 December 1988	4
	Fifth report	9 December 1990	3
	Sixth report	9 December 1992	1
	Seventh report	9 December 1994	-
Senegal	Eleventh report	18 May 1993	-
	Twelfth report	18 May 1995	-
Seychelles	Sixth report	6 April 1989	2
	Seventh report	6 April 1991	2
	Eighth report	6 April 1993	1
	Ninth report	6 April 1995	-
Sierra Leone	Fourth report	5 January 1976	24
	Fifth report	5 January 1978	20
	Sixth report	5 January 1980	18
	Seventh report	5 January 1982	14
	Eighth report	5 January 1984	10
	Ninth report	5 January 1986	6
	Tenth report	5 January 1988	3
	Eleventh report	5 January 1990	3
	Twelfth report	5 January 1992	2
	Thirteenth report	5 January 1994	1
	Supplementary	31 March 1975	1
Slovakia	Initial report	1 January 1994	-
Slovenia	Initial report	6 July 1993	-
Solomon Islands	Second report	17 March 1985	9
	Third report	17 March 1987	6
	Fourth report	17 March 1989	4
	Fifth report	17 March 1991	3
	Sixth report	17 March 1993	1
	Seventh report	17 March 1955	-

State party	Type of report	Date on which the report was due	Number of reminders sent
Somalia	Fifth report	27 September 1984	9
	Sixth report	27 September 1986	6
	Seventh report	27 September 1988	4
	Eighth report	27 September 1990	3
	Ninth report	27 September 1992	1
	Tenth report	27 September 1994	1
Sudan	Ninth report	20 April 1994	-
Suriname	Initial report	15 March 1985	9
	Second report	15 March 1987	6
	Third report	15 March 1989	4
	Fourth report	15 March 1991	3
	Fifth report	15 March 1993	1
	Sixth report	15 March 1995	-
Swaziland	Fourth report	6 May 1976	25
	Fifth report	6 May 1978	21
	Sixth report	6 May 1980	19
	Seventh report	6 May 1982	13
	Eighth report	6 May 1984	9
	Ninth report	6 May 1986	4
	Tenth report	6 May 1988	3
	Eleventh report	6 May 1990	3
	Twelfth report	6 May 1992	1
	Thirteenth report	6 May 1994	1
Sweden	Twelfth report	5 January 1995	-
Syrian Arab Republic	Twelfth report	21 May 1992	1
	Thirteenth report	21 May 1994	1
The former Yugoslav Republic of Macedonia	Initial report	17 September 1992	-
	Second report	17 September 1994	-
Togo	Sixth report	1 October 1983	10
	Seventh report	1 October 1985	6
	Eighth report	1 October 1987	3
	Ninth report	1 October 1989	3
	Tenth report	1 October 1991	2
	Eleventh report	1 October 1993	1
Tonga	Eleventh report	17 March 1993	-
	Twelfth report	17 March 1995	-
Trinidad and Tobago	Eleventh report	4 November 1994	-
Tunisia	Thirteenth report	5 January 1994	-

State party	Type of report	Date on which the report was due	Number of reminders sent
Uganda	Second report	21 December 1983	10
	Third report	21 December 1985	6
	Fourth report	21 December 1987	3
	Fifth report	21 December 1989	3
	Sixth report	21 December 1991	2
	Seventh report	21 December 1993	1
Ukraine	Thirteenth report	5 January 1994	-
United Republic of Tanzania	Eighth report	26 November 1987	5
	Ninth report	26 November 1989	5
	Tenth report	26 November 1991	2
	Eleventh report	26 November 1993	1
Uruguay	Twelfth report	5 January 1992	1
	Thirteenth report	5 January 1994	1
Viet Nam	Sixth report	9 July 1993	-
Yemen	Eleventh report	19 November 1993	-
Yugoslavia d/	Eleventh report	5 January 1990	2
	Twelfth report	5 January 1992	2
	Thirteenth report	5 January 1994	1
Zaire	Tenth report	21 May 1995	-
Zambia	Twelfth report	22 February 1995	-
Zimbabwe	Second report	21 June 1995	-

a/ For a report submitted in compliance with a decision of the Committee taken at its forty-second session (1993), see CERD/C/247.

b/ For a report submitted in compliance with a decision of the Committee taken at its forty-second session (1993), see CERD/C/249.

c/ For a report submitted in compliance with a decision of the Committee taken at its forty-fourth session (1994), see CERD/C/282.

d/ For a report and further information submitted in compliance with a decision of the Committee taken at its forty-second session (1993), see CERD/C/248 and Add.1.

C. Action taken by the Committee to ensure submission of reports by States parties

690. At its forty-sixth and forty-seventh sessions, the Committee reviewed the question of delays and non-submission of reports by States parties in accordance with their obligations under article 9 of the Convention.

691. At its forty-second session, the Committee, having emphasized that the delays in reporting by States parties hampered it in monitoring implementation of the Convention, decided that it would continue to proceed with the review of the implementation of the provisions of the Convention by the States parties whose reports were excessively overdue. In accordance with a decision taken at its thirty-ninth session, the Committee agreed that this review would be based upon the last reports submitted by the State party concerned and their consideration by the Committee. In implementation of those decisions in 1994 and 1995 letters were addressed by the Chairman of the Committee to the Ministers for Foreign Affairs of the following States parties - Cambodia, Panama, India, Venezuela, Madagascar and Pakistan - informing them of the decision taken by the Committee and inviting the Governments concerned to designate a representative to participate in the consideration of their respective reports. Of those States parties, four (Cambodia, Panama, India and Madagascar) requested postponement of the review with a view to submitting the requested reports, and one, Venezuela, submitted a report.

692. At its forty-sixth session the Committee decided to undertake a second round of reviews of the implementation of the Convention in States parties whose reports remained seriously overdue. The first of these reviews, concerning Sierra Leone, was undertaken at the forty-seventh session.

693. The Committee further decided, at its 1127th meeting, held on 18 August 1995, to request the Secretary-General, in accordance with rule 66, paragraph 1, of the rules of procedure of the Committee, to continue sending appropriate reminders to States parties from which two or more reports were due but had not been received before the closing date of its forty-seventh session, asking them to submit their reports by 31 December 1995. The Committee agreed that the reminders to be sent by the Secretary-General should indicate that all overdue reports could be submitted in one consolidated document. (States parties whose reports are overdue are listed in table 2 above.)

VIII. THIRD DECADE TO COMBAT RACISM AND RACIAL DISCRIMINATION

694. The Committee considered this item at its forty-sixth session (1095th meeting) and at its forty-seventh session (1100th and 1112th meetings).

695. For the consideration of this item, the Committee had before it the following documents:

(a) General Assembly resolution 49/146 on the Third Decade to Combat Racism and Racial Discrimination;

(b) Commission on Human Rights resolution 1993/20 on measures to combat contemporary forms of racism, racial discrimination, xenophobia and related intolerance; resolution 1995/11 on the implementation of the Programme of Action for the Third Decade to Combat Racism and Racial Discrimination, and resolution 1995/12 on measures to combat contemporary forms of racism, racial discrimination, xenophobia and related intolerance;

(c) Subcommission on Prevention of Discrimination and Protection of Minorities resolution 1993/3 on measures to combat racism and racial discrimination and the role of the Subcommission, resolution 1994/2 on a world conference against racism, racial and ethnic discrimination, xenophobia and other related contemporary forms of intolerance, and resolution 1994/4 on prevention of discrimination and protection of minorities;

(d) Report of the Secretary-General on the implementation of the Programme of Action for the Third Decade to Combat Racism and Racial Discrimination (E/1995/111 and Add.1);

(e) Report of the Special Rapporteur of the Commission on Human Rights on contemporary forms of racism, racial discrimination and xenophobia and related intolerance (E/CN.4/1995/78 and Add.1).

696. At its 1095th meeting, on 22 March 1995, the Committee met with the Special Rapporteur of the Commission on Human Rights on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Mr. Glélé-Ahanhanzo. The Special Rapporteur described his mandate, indicated that he welcomed all possibilities for close cooperation with the Committee and requested the Committee's views on his working methods and programme of activities.

697. Members offered on the one hand to cooperate with the Special Rapporteur and drew attention to points of complementarity and of difference in the respective mandates. It was, for instance, noted that the Committee could only address situations within States which were parties to the International Convention on the Elimination of All Forms of Racial Discrimination, whereas the Special Rapporteur was not so constrained. Members recommended that the Special Rapporteur give priority attention to issues falling within his mandate in countries that have not yet ratified the Convention. It was, however, observed that the Committee was well placed to identify actual or impending situations of racial discrimination in 143 countries of the world and that there was room for the development of cooperation with regard to the taking of appropriate preventative action. There was general agreement that an important area of cooperation might be the regular exchange of information, and Committee members observed that they already paid close attention to the reports of the Special Rapporteur in the context of their examination of reports submitted by States parties. It was suggested that the Special Rapporteur, in his work, should take

account of the reports of the Committee and the general recommendations which it had issued concerning the terms of the Convention.

698. In reply, the Special Rapporteur welcomed the various suggestions made and proposed that he and the Committee undertake a range of shared projects of study and research. He also drew attention to the need for the United Nations Secretariat to facilitate a regular exchange of information between him and the Committee.

699. The 1112th meeting of the Committee, held on 8 August 1995, was a joint meeting with the Subcommission on Prevention of Discrimination and Protection of Minorities, held in the presence of the Assistant Secretary-General for Human Rights, Mr. I. Fall. This meeting had been proposed by the Subcommission in its resolution 1993/3, entitled "Measures to combat racism and racial discrimination and the role of the Subcommission", and had as its purpose the elaboration of recommendations concerning comprehensive measures to be taken at national and international levels to combat contemporary forms of racism, racial discrimination, xenophobia and related intolerance. As well as the Committee and the Subcommission, the Special Rapporteur, Mr. Glélé-Ahanhanzo, also participated.

700. Speakers made a wide range of suggestions and recommendations regarding immediate joint action, methods of ongoing cooperation, possibilities for the undertaking of joint studies, preparations for the proposed world conference against racism, and the development of preventive procedures. It was proposed by a number of speakers that a joint statement be issued during the current respective sessions of the Committee and Subcommission concerning situations of massive violations of human rights which had as a major component racial, ethnic or related discrimination, in particular the situations in Bosnia and Herzegovina and Rwanda. It was noted that a statement should draw attention to the need to bring the perpetrators of such acts to justice and to the importance of strengthening and supporting the international ad hoc criminal tribunals. It was also felt that the statement should draw attention to the plight of persons displaced as a result of racial or ethnically motivated hatred and violence.

701. Speakers suggested that joint studies be undertaken concerning, inter alia, the meaning and effect of articles 4 and 7 of the Convention, the development of preventive procedures, the rise of racist speech in the media, especially the electronic media, minorities, and the existing inadequacies of international law on migration issues. It was also proposed that both bodies might issue a joint recommendation on human rights education.

702. At the conclusion of the joint meeting, the two Chairmen issued an agreed declaration for joint and cooperative action whereby (i) the bureaux of the two bodies would meet on an annual basis and the two bodies might hold joint meetings again in the future; (ii) a speedy and efficient flow of information would be immediately put in place; (iii) a joint study would be undertaken concerning article 7 of the Convention; and (iv) the two bodies would, at their current sessions, issue a joint statement concerning massive and gross occurrences of racial and related discrimination.

Notes

1/ See Official Records of the International Convention on the Elimination of All Forms of Racial Discrimination, Fifteenth Meeting of States Parties, Decisions (CERD/SP/53).

2/ Official Records of the General Assembly, Twenty-seventh Session, Supplement No. 18 (A/8718), chap. IX, sect. B.

3/ Ibid., Forty-eighth Session, Supplement No. 18 (A/48/18), annex III.

4/ This decision was adopted by a vote. The following members made explanations after the vote: Mr. Diaconu, Mr. de Gouttes, Mr. Chigovera, Mr. Agha Shahi, Mr. Wolfrum, Mr. Rechetov, Mr. Ferrero Costa, Mr. van Boven, Mr. Yutzis, Mr. Song, Mr. Ahmadu, Mr. Banton and Mr. Garvalov. It should also be noted that the vote was preceded by an extensive exchange of views on the matter (see CERD/C/SR.1125).

Mr. Diaconu explained that as the Committee did not vote separately on subparagraph (f), he could not approve the draft. He also stated that he had effectively been precluded from expressing his opinion on the competence of the Committee concerning the contents of subparagraph (f). He objected to the procedure for the adoption of the decision which, in his opinion, did not follow the Committee's rules of procedure. He therefore had abstained, even though he only objected to one paragraph.

Mr. de Gouttes explained that he had abstained for reasons of procedure and substance. Concerning the former, he indicated that he agreed with Mr. Diaconu that the rules of procedure necessitated that there first be a separate vote on subparagraph (f) of the draft. With regard to substance, he stated that he approved of the text in its entirety, with the exception of subparagraph (f) which he believed to be outside the competence of the Committee. He also considered that the text could have better distinguished between the situations in Srebrenica and Zepa on the one hand, and in Krajina on the other. Mr. de Gouttes concluded by regretting that more effort had not been made to find a draft text which would have been acceptable to all members.

Mr. Chigovera explained that he had abstained because he did not agree that subparagraph (f) was within the competence of the Committee. He stated, however, that he supported the draft in general except for that paragraph.

Mr. Agha Shahi explained that his reasons for voting against the draft decision were fully set out in his earlier statement in which he had commented paragraph by paragraph, pointing out the shortcomings which militated against a fair compromise and equitable balance in the text of the draft decision. Nevertheless, if the provisions had been put to a vote paragraph by paragraph, he would have abstained on several of the preambular paragraphs while supporting those dealing with the humanitarian aspects, in spite of their shortcomings. He would certainly have voted in favour of the paragraph urgently calling for the provision to Bosnia and Herzegovina of all means to protect itself in accordance with Article 51 of the Charter of the United Nations and to live within safe and secure borders. He maintained that this paragraph fell squarely within the ambit of the Convention because it was the only way of protecting the lives of the Bosnian Muslims. He reminded the Committee that the right to life was the most fundamental of human rights and must be guaranteed to all regardless of race, ethnicity, descent and so on, as set forth in article 1 of the Convention. He emphasized that as the international community had failed to fulfil its pledge to protect the population of the "safe areas" of Srebrenica and Zepa, the only way to ensure the right to life of this Bosnian group was not to deny it the right of self-defence. Mr. Agha Shahi went on to explain that his main reason for voting against the draft decision was the last paragraph, which did not call for immediate enforcement action by the United Nations Security Council, weakening the force of the recommendation, adopted at its forty-sixth session (March 1995), that called for the application of such measures by the Security Council in Bosnia and Herzegovina. Enforcement action was urgent in view of the fresh wave of "ethnic cleansing" after the fall of Srebrenica and Zepa and the war crimes and crimes against humanity committed against the Bosnian Muslim refugees and displaced persons. The first preambular paragraph, referring to the concluding observations as set forth at the forty-sixth session, had become greatly weakened by the wording of the last paragraph of the draft decision. Taking the draft decision as a whole, Mr. Agha Shahi found it to be unfair, unbalanced and failing to meet the challenge before the Committee. He also noted that two years ago, he was unable to associate himself with the findings of the Committee regarding Bosnia and Herzegovina because they had equated the victims of "ethnic cleansing" with its perpetrators.

Mr. Wolfrum explained his vote in favour of the draft, which he described as a compromise text. He stated that he was not completely happy with every element of the text but he believed that the outcome was more satisfactory than negative. Mr. Wolfrum stated that he was deeply impressed by the arguments put forward by Mr. Agha Shahi, Mrs. Sadiq Ali and Mr. de Gouttes. He would have preferred to have clarified the distinction between the events that occurred, on the one hand, in Zepa and Srebrenica and, on the other, in Krajina; he would also have preferred a much stronger wording condemning "ethnic cleansing". He would have preferred a consensus decision, but the result was the best that could be achieved under the circumstances.

Mr. Rechetov stated that, although the text of the draft was not ideal, in his opinion it was relatively balanced. He expressed concern about reports on atrocities according to which women and children were abused by Croatian troops in villages to which the United Nations had no access. He explained his abstention first by stating that the draft decision made reference to concluding observations adopted during the previous session which had been unbalanced and not fully impartial and because he objected to the reference made to Article 51 of the Charter.

Mr. Ferrero Costa explained that he had voted in favour because he had found the draft decision fair and impartial. He would have preferred had the "ethnic cleansing" of the region been condemned more strongly and had the Committee called more strongly on the European States and international organizations to take more responsibility. He approved of mentioning Article 51 of the Charter in subparagraph (f) and generally agreed with what had been said by Mr. Wolfrum.

Mr. van Boven, having voted in favour of the decision, took the floor to explain his vote and also to respond to some comments made by Mr. Rechetov in relation to what Mr. van Boven had said earlier in the discussion.
Mr. van Boven expressed the wish to have been able to make the distinction between what had happened in Zepa and Srebrenica and in the Krajina area. He was therefore not fully satisfied with the text. He had been following quite closely the events in the former Yugoslavia and he agreed with Mr. Rechetov that in the Krajina area the Croats had, in his view, committed war crimes. However, he challenged the view that this could be compared with the reported systematic liquidation of a part of the adult male population of Srebrenica. Had there been a separate vote on the individual paragraphs he would have abstained on subparagraph (f) for reasons also expressed by other members of the Committee.

Mr. Yutzis expressed the regret that he had not been present for the voting. The situation in Bosnia and Herzegovina was a very grave humanitarian situation and everyone knew that the events that produced it could happen in other parts of the world. If he had been present he would have voted in favour of the draft decision and requested that the systematic liquidation of groups of persons be condemned. He expressed the wish that the Committee had condemned systematic crimes more strongly.

Mr. Song, who had voted in favour of the decision, expressed his satisfaction with the draft. However, he indicated that the comments expressed regarding paragraph 10 were justified and that had there been a vote paragraph by paragraph, he would have abstained on subparagraph (f).

Mr. Ahmadu explained that he had voted for the decision because he was a co-sponsor of the text. He believed that "if you can't get what you want, you should like what you get", and that this described his feelings about the draft resolution. He also expressed his profound hope that the situation in the region would soon improve.

Mr. Banton explained that he voted in favour of the motion although procedurally he agreed with Mr. Diaconu and he would have liked to have had the opportunity to vote against subparagraph (f). On points of substance he agreed with what Mr. Diaconu, Mr. de Gouttes, Mr. Chigovera, Mr. Wolfrum and Mr. van Boven said and with some of what Mr. Shahi, Mr. Rechetov and Mr. Ferrero had said. He was only able to vote in favour because he knew he would have the opportunity to make an explanation of his vote.

Mr. Garvalov, in his personal capacity, stated that the reason he had voted in favour of the draft decision was that he felt that the Committee needed to make its position on Bosnia and Herzegovina known at the present session. For him, the language of the text was more satisfactory than unsatisfactory. Had it been possible to conduct a separate vote on each paragraph, he probably would have taken another position on one or two of them. On the whole, however, he felt that he was morally bound to give his support to the decision because it was what the Committee was expected to do.

5/ Official Records of the General Assembly, Forty-eighth Session, Supplement No. 18 (A/48/18), paras. 496-506.

6/ Ibid., paras. 531-547.

7/ Official Records of the General Assembly, Forty-seventh Session, Supplement No. 18 (A/47/18), para. 225.

8/ Ibid., Forty-ninth Session, Supplement No. 18 (A/49/18), para. 85.

9/ Ibid., para. 91.

10/ Official Records of the General Assembly, Forty-third Session, Supplement No. 18 (A/43/18), annex IV.

11/ Ibid., Forty-sixth Session, Supplement No. 18 (A/46/18), annex VIII.

12/ Ibid., Forty-eighth Session, Supplement No. 18 (A/48/18), annex IV.

13/ Ibid., Forty-ninth Session, Supplement No. 18 (A/49/18), annex IV.

14/ Ibid., Supplement No. 23 (A/45/23), chap. I.

15/ Ibid., Supplement No. 36 (A/49/36).

ANNEX I

Status of the Convention

A. States parties to the International Convention on the Elimination of All Forms of Racial Discrimination (143), as at 18 August 1995

State party	Date of receipt of the instrument of ratification or accession	Entry into force
Afghanistan	6 July 1983 a/	5 August 1983
Albania	11 May 1994 a/	10 June 1994
Algeria	14 February 1972	15 March 1972
Antigua and Barbuda	25 October 1988 a/	25 October 1988
Argentina	2 October 1968	4 January 1969
Armenia	23 June 1993 a/	23 July 1993
Australia	30 September 1975	30 October 1975
Austria	9 May 1972	8 June 1972
Bahamas	5 August 1975 b/	5 August 1975
Bahrain	27 March 1990 a/	26 April 1990
Bangladesh	11 June 1979 a/	11 July 1979
Barbados	8 November 1972 a/	8 December 1972
Belarus	8 April 1969	8 May 1969
Belgium	7 August 1975	6 September 1975
Bolivia	22 September 1970	22 October 1970
Bosnia and Herzegovina	16 July 1993 b/	16 July 1993
Botswana	20 February 1974 a/	22 March 1974
Brazil	27 March 1968	4 January 1969
Bulgaria	8 August 1966	4 January 1969
Burkina Faso	18 July 1974 a/	17 August 1974
Burundi	27 October 1977	26 November 1977
Cambodia	28 November 1983	28 December 1983
Cameroon	24 June 1971	24 July 1971
Canada	14 October 1970	15 November 1970
Cape Verde	3 October 1979 a/	2 November 1979
Central African Republic	16 March 1971	15 April 1971
Chad	17 August 1977 a/	16 September 1977
Chile	20 October 1971	19 November 1971
China	29 December 1981 a/	28 January 1982
Colombia	2 September 1981	2 October 1981
Congo	11 July 1988 a/	10 August 1988
Costa Rica	16 January 1967	4 January 1969
Côte d'Ivoire	4 January 1973 a/	3 February 1973
Croatia	12 October 1992 b/	8 October 1991
Cuba	15 February 1972	16 March 1972

State party	Date of receipt of the instrument of ratification or accession	Entry into force
Cyprus	21 April 1967	4 January 1969
Czech Republic	22 February 1993 b/	1 January 1993
Denmark	9 December 1971	8 January 1972
Dominican Republic	25 May 1983 a/	24 June 1983
Ecuador	22 September 1966 a/	4 January 1969
Egypt	1 May 1967	4 January 1969
El Salvador	30 November 1979 a/	30 December 1979
Estonia	21 October 1991 a/	20 November 1991
Ethiopia	23 June 1976 a/	23 July 1976
Fiji	11 January 1973 b/	11 January 1973
Finland	14 July 1970	13 August 1970
France	28 July 1971 a/	27 August 1971
Gabon	29 February 1980	30 March 1980
Gambia	29 December 1978 a/	28 January 1979
Germany	16 May 1969	15 June 1969
Ghana	8 September 1966	4 January 1969
Greece	18 June 1970	18 July 1970
Guatemala	18 January 1983	17 February 1983
Guinea	14 March 1977	13 April 1977
Guyana	15 February 1977	17 March 1977
Haiti	19 December 1972	18 January 1973
Holy See	1 May 1969	31 May 1969
Hungary	1 May 1967	4 January 1969
Iceland	13 March 1967	4 January 1969
India	3 December 1968	4 January 1969
Iran (Islamic Republic of)	29 August 1968	4 January 1969
Iraq	14 January 1970	13 February 1970
Israel	3 January 1979	2 February 1979
Italy	5 January 1976	4 February 1976
Jamaica	4 June 1971	4 July 1971
Jordan	30 May 1974 a/	29 June 1974
Kuwait	15 October 1968 a/	4 January 1969
Lao People's Democratic Republic	22 February 1974 a/	24 March 1974
Latvia	14 April 1992 a/	14 May 1992
Lebanon	12 November 1971 a/	12 December 1971
Lesotho	4 November 1971 a/	4 December 1971
Liberia	5 November 1976 a/	5 December 1976
Libyan Arab Jamahiriya	3 July 1968 a/	4 January 1969
Luxembourg	1 May 1978	31 May 1978
Madagascar	7 February 1969	9 March 1969

State party	Date of receipt of the instrument of ratification or accession	Entry into force
Maldives	24 April 1984 a/	24 May 1984
Mali	16 July 1974 a/	15 August 1974
Malta	27 May 1971	26 June 1971
Mauritania	13 December 1988	12 January 1989
Mauritius	30 May 1972 a/	29 June 1972
Mexico	20 February 1975	22 March 1975
Mongolia	6 August 1969	5 September 1969
Morocco	18 December 1970	17 January 1971
Mozambique	18 April 1983 a/	18 May 1983
Namibia	11 November 1982 a/	11 December 1982
Nepal	30 January 1971 a/	1 March 1971
Netherlands	10 December 1971	9 January 1972
New Zealand	22 November 1972	22 December 1972
Nicaragua	15 February 1978 a/	17 March 1978
Niger	27 April 1967	4 January 1969
Nigeria	16 October 1967 a/	4 January 1969
Norway	6 August 1970	5 September 1970
Pakistan	21 September 1966	4 January 1969
Panama	16 August 1967	4 January 1969
Papua New Guinea	27 January 1982 a/	26 February 1982
Peru	29 September 1971	29 October 1971
Philippines	15 September 1967	4 January 1969
Poland	5 December 1968	4 January 1969
Portugal	24 August 1982 a/	23 September 1982
Qatar	22 July 1976 a/	21 August 1976
Republic of Korea	5 December 1978 a/	4 January 1979
Republic of Moldova	26 January 1993 a/	25 February 1993
Romania	15 September 1970 a/	15 October 1970
Russian Federation	4 February 1969	6 March 1969
Rwanda	16 April 1975 a/	16 May 1975
Saint Lucia	14 February 1990 b/	14 February 1990
Saint Vincent and the Grenadines	9 November 1981 a/	9 December 1981
Senegal	19 April 1972	19 May 1972
Seychelles	7 March 1978 a/	6 April 1978
Sierra Leone	2 August 1967	4 January 1969
Slovakia	28 May 1993 b/	28 May 1993
Slovenia	6 July 1992 b/	6 July 1992
Solomon Islands	17 March 1982 b/	17 March 1982
Somalia	26 August 1975	25 September 1975
Spain	13 September 1968 a/	4 January 1969

State party	Date of receipt of the instrument of ratification or accession	Entry into force
Sri Lanka	18 February 1982 a/	20 March 1982
Sudan	21 March 1977 a/	20 April 1977
Suriname	15 March 1984 b/	15 March 1984
Swaziland	7 April 1969 a/	7 May 1969
Sweden	6 December 1971	5 January 1972
Switzerland	29 November 1994 a/	29 December 1994
Syrian Arab Republic	21 April 1969 a/	21 May 1969
Tajikistan	11 January 1995 a/	10 February 1995
The former Yugoslav Republic of Macedonia	18 January 1994 b/	17 September 1991
Togo	1 September 1972 a/	1 October 1972
Tonga	16 February 1972 a/	17 March 1972
Trinidad and Tobago	4 October 1973	3 November 1973
Tunisia	13 January 1967	4 January 1969
Turkmenistan	29 September 1994 a/	29 October 1994
Uganda	21 November 1980 a/	21 December 1980
Ukraine	7 March 1969	6 April 1969
United Arab Emirates	20 June 1974 a/	20 July 1974
United Kingdom of Great Britain and Northern Ireland	7 March 1969	6 April 1969
United Republic of Tanzania	27 October 1972 a/	26 November 1972
United States of America	21 October 1994	20 November 1994
Uruguay	30 August 1968	4 January 1969
Venezuela	10 October 1967	4 January 1969
Viet Nam	9 June 1982 a/	9 July 1982
Yemen	18 October 1972 a/	17 November 1972
Yugoslavia	2 October 1967	4 January 1969
Zaire	21 April 1976 a/	21 May 1976
Zambia	4 February 1972	5 March 1972
Zimbabwe	13 May 1991 a/	12 June 1991

B. States parties that have made the declaration under article 14, paragraph 1, of the Convention (22), as at 18 August 1995

State party	Date of deposit of the declaration	Effective date
Algeria	12 September 1989	12 September 1989
Australia	28 January 1993	28 January 1993
Bulgaria	12 May 1993	12 May 1993
Chile	18 May 1994	18 May 1994
Costa Rica	8 January 1974	8 January 1974
Cyprus	30 December 1993	30 December 1993
Denmark	11 October 1985	11 October 1985
Ecuador	18 March 1977	18 March 1977
Finland	16 November 1994	16 November 1994
France	16 August 1982	16 August 1982
Hungary	13 September 1990	13 September 1990
Iceland	10 August 1981	10 August 1981
Italy	5 May 1978	5 May 1978
Netherlands	10 December 1971	9 January 1972
Norway	23 January 1976	23 January 1976
Peru	27 November 1984	27 November 1984
Russian Federation	1 October 1991	1 October 1991
Senegal	3 December 1982	3 December 1982
Slovakia	17 March 1995	17 March 1995
Sweden	6 December 1971	5 January 1972
Ukraine	28 July 1992	28 July 1992
Uruguay	11 September 1972	11 September 1972

C. States parties that have accepted the amendments to the Convention adopted at the Fourteenth Meeting of States Parties c/ (17), as at 18 August 1995

State party	Date acceptance received
Australia	15 October 1993
Bahamas	31 March 1994
Bulgaria	2 March 1995
Burkina Faso	9 August 1993
Canada	8 February 1995
Denmark	3 September 1993
Finland	9 February 1994
France	1 September 1994
Netherlands (for the Kingdom in Europe and the Netherlands Antilles and Aruba)	24 January 1995
New Zealand	8 October 1993
Norway	6 October 1993
Republic of Korea	30 November 1993
Seychelles	23 July 1993
Sweden	14 May 1993
Trinidad and Tobago	23 August 1993
Ukraine	17 June 1994
United Kingdom of Great Britain and Northern Ireland	7 February 1994

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a/ Accession.

b/ Date of receipt of notification of succession.

c/ For the amendments to enter into force, acceptance must be received from two thirds of the States parties to the Convention.

ANNEX II

Agendas of the forty-sixth and forty-seventh sessions

A. Forty-sixth session

1. Adoption of the agenda.

2. Organizational and other matters.

3. Prevention of racial discrimination, including early warning and urgent procedures.

4. Consideration of reports, comments and information submitted by States parties under article 9 of the Convention.

5. Consideration of communications under article 14 of the Convention.

6. Consideration of copies of petitions, copies of reports and other information relating to Trust and Non-Self-Governing Territories and to all other territories to which General Assembly resolution 1514 (XV) applies, in conformity with article 15 of the Convention.

7. Action by the General Assembly at its forty-ninth session:

   (a) Annual report submitted by the Committee on the Elimination of Racial Discrimination under article 9, paragraph 2, of the Convention;

   (b) Effective implementation of international instruments on human rights, including reporting obligations under international instruments on human rights.

8. Submission of reports by States parties under article 9, paragraph 1, of the Convention.

9. Third Decade to Combat Racism and Racial Discrimination.

B. Forty-seventh session

1. Adoption of the agenda.

2. Organizational and other matters.

3. Prevention of racial discrimination, including early warning and urgent procedures.

4. Consideration of reports, comments and information submitted by States parties under article 9 of the Convention.

5. Consideration of communications under article 14 of the Convention.

6. Consideration of copies of petitions, copies of reports and other information relating to Trust and Non-Self-Governing Territories and to all other territories to which General Assembly resolution 1514 (XV) applies, in conformity with article 15 of the Convention.

7. Consideration of reports, comments and information submitted by States parties under article 9, paragraph 1, of the Convention.

8. Third Decade to Combat Racism and Racial Discrimination.

9. Meetings of the Committee in 1996 and 1997.

10. Annual report of the Committee to the General Assembly.

ANNEX III

Contribution of the Committee on the Elimination of Racial Discrimination to the United Nations Decade for Human Rights Education a/

1. The Committee on the Elimination of Racial Discrimination decides to issue the following commentary on the report of the Secretary-General (A/49/261/Add.1) and to bring to his attention the following:

(a) Concerning paragraph 13 (g), the Committee assures the Secretary-General that it will continue to monitor implementation of article 7 of the Convention;

(b) Concerning paragraph 2 (c) of the annex, there are certain features of racial discrimination which are specific to it, such as the dissemination of doctrines of racial superiority. Nevertheless, the Committee believes that teaching about racial discrimination can well be presented as part of teaching about discrimination in general, including discrimination on other grounds, as suggested in this subparagraph;

(c) Concerning paragraphs 21 to 23 and 26 of the annex, the Committee supports the proposals in these paragraphs for information campaigns and popular education;

(d) Concerning paragraph 25 of the annex, higher education in this field will best be arranged within institutes of law and political science;

(e) Concerning paragraph 74 of the annex, the Committee supports the proposals for the training of persons in the occupational groups listed. It inquires about such training during its consideration of State party reports and has adopted general recommendation XIII concerning the training of law enforcement officials and general recommendation XVII on the establishment of national institutions to facilitate the implementation of the Convention.

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a/ Text adopted at the 1098th meeting, on 17 March 1995.

ANNEX IV

List of documents issued for the forty-sixth and forty-seventh sessions of the Committee

CERD/C/210/Add.4	Ninth, tenth and eleventh periodic reports of Romania, submitted in one document
CERD/C/224/Add.1	Seventh, eighth, ninth and tenth periodic reports of Trinidad and Tobago, submitted in one document
CERD/C/225/Add.3	Eighth, ninth, tenth and eleventh periodic reports of Peru, submitted in one document
CERD/C/234/Add.1	Third, fourth, fifth and sixth periodic reports of Sri Lanka, submitted in one document
CERD/C/237/Add.1	Eighth and ninth periodic reports of Italy, submitted in one document
CERD/C/239/Add.3	Tenth and eleventh periodic reports of New Zealand, submitted in one document
CERD/C/247/Add.1	Report of Bosnia and Herzegovina, submitted in compliance with a decision of the Committee taken at its forty-second session
CERD/C/248/Add.1	Additional information of the Federal Republic of Yugoslavia (Serbia and Montenegro), submitted in compliance with a decision of the Committee taken at its forty-third session
CERD/C/249/Add.1	Additional information of Croatia, submitted in compliance with a decision of the Committee taken at its forty-third session
CERD/C/256/Add.1	Second, third, fourth, fifth and sixth periodic reports of Guatemala, submitted in one document
CERD/C/258/Add.1	Third, fourth, fifth, sixth, seventh and eighth periodic reports of El Salvador, submitted in one document
CERD/C/259/Add.1	Fifth, sixth, seventh, eighth and ninth periodic reports of Chad, submitted in one document
CERD/C/260/Add.1	Ninth and tenth periodic reports of Mexico, submitted in one document
CERD/C/263/Add.1	Eleventh, twelfth and thirteenth periodic reports of Cyprus, submitted in one document

CERD/C/263/Add.3	Thirteenth periodic report of Nigeria
CERD/C/263/Add.4	Eleventh, twelfth and thirteenth periodic reports of Belarus, submitted in one document
CERD/C/267	Provisional agenda and annotations of the forty-sixth session of the Committee on the Elimination of Racial Discrimination
CERD/C/268	Submission of reports by States parties in accordance with article 9 of the Convention
CERD/C/269	Consideration of petitions, copies of reports and other information relating to Trust and Non-Self-Governing Territories and to all other Territories to which General Assembly resolution 1514 (XV) applies, in conformity with article 15 of the Convention: note by the Secretary-General
CERD/C/277/Add.1	Fifth, sixth, seventh, eighth and ninth periodic reports of Nicaragua, submitted in one document
CERD/C/279/Add.1	Seventh, eighth, ninth, tenth and eleventh periodic reports of the United Arab Emirates, submitted in one document
CERD/C/283	Additional information of Nigeria, submitted in compliance with a decision taken by the Committee at its forty-third session
CERD/C/284	Provisional agenda and annotations of the forty-seventh session of the Committee on the Elimination of Racial Discrimination
CERD/C/285	Submission of reports by States parties in accordance with article 9 of the Convention
CERD/C/286	Report of Mexico, submitted in compliance with a decision of the Committee taken at its forty-sixth session
CERD/C/287	Additional information of Nigeria
CERD/C/SR.1070 to 1127	Summary records of the forty-sixth and forty-seventh sessions of the Committee on the Elimination of Racial Discrimination

ANNEX V

Documents received by the Committee at its forty-sixth and forty-seventh sessions in conformity with article 15 of the Convention

The following is a list of the working papers submitted by the Special Committee on the Situation with Regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples:

	Documents
African territories	
Western Sahara	AC.109/1194
Atlantic Ocean and Caribbean Territories, including Gibraltar	
Falkland Islands (Malvinas)	A/AC.109/1198
Gibraltar	A/AC.109/1195
Pacific and Indian Ocean Territories	
New Caledonia	A/AC.109/1197

ANNEX VI

Country rapporteurs for reports considered by the Committee at its forty-sixth and forty-seventh sessions

Reports considered by the Committee	Country rapporteur
ALGERIA Urgent report requested by the Committee under article 9, paragraph 1, of the Convention	Mr. Luis Valencia Rodríguez
BELARUS Eleventh, twelfth and thirteenth periodic reports (CERD/C/263/Add.4)	Mr. Ion Diaconu
BOSNIA AND HERZEGOVINA Report submitted in compliance with a decision of the Committee taken at its forty-second session (CERD/C/247/Add.1)	Mrs. Shanti Sadiq Ali
BURUNDI Urgent report requested by the Committee under article 9, paragraph 1, of the Convention	Mrs. Shanti Sadiq Ali
CHAD Fifth, sixth, seventh, eighth and ninth periodic reports (CERD/C/259/Add.1)	Mr. Régis de Gouttes
CROATIA Additional information submitted in compliance with a decision of the Committee taken at its forty-third session (CERD/C/249/Add.1)	Mr. Mario Jorge Yutzis
CYPRUS Eleventh, twelfth and thirteenth periodic reports (CERD/C/263/Add.1)	Mr. Yuri A. Rechetov
EL SALVADOR Third, fourth, fifth, sixth, seventh and eighth periodic reports (CERD/C/258/Add.1)	Mr. Rüdiger Wolfrum
THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA Urgent report requested by the Committee under article 9, paragraph 1, of the Convention	Mr. Yuri A. Rechetov

Reports considered by the Committee	Country rapporteur
FEDERAL REPUBLIC OF YUGOSLAVIA (SERBIA AND MONTENEGRO)	Mr. Luis Valencia Rodríguez
Additional information submitted in compliance with a decision of the Committee taken at its forty-third session (CERD/C/248/Add.1)	
GUATEMALA	Mr. Mario Jorge Yutzis
Second, third, fourth, fifth and sixth periodic reports (CERD/C/256/Add.1)	
MADAGASCAR	Mr. Régis de Gouttes
Review based on the ninth periodic report (CERD/C/149/Add.19)	
MEXICO	Mr. Rüdiger Wolfrum
Ninth and tenth periodic reports (CERD/C/260/Add.1)	
NEW ZEALAND	Mr. Andrew R. Chigovera
Tenth and eleventh periodic reports (CERD/C/239/Add.3)	
NICARAGUA	Mr. Theodoor van Boven Mr. Eduardo Ferrero Costa
Fifth, sixth, seventh, eighth and ninth periodic reports (CERD/C/277/Add.1)	
NIGERIA	Mr. Michael Parker Banton
Thirteenth periodic report (CERD/C/263/Add.3)	
Additional information requested by the Committee under article 9, paragraph 1, of the Convention (CERD/C/283)	
PAPUA NEW GUINEA	Mr. Rüdiger Wolfrum
Urgent report requested by the Committee under article 9, paragraph 1, of the Convention	
PERU	Mr. Rüdiger Wolfrum
Eighth, ninth, tenth and eleventh periodic reports (CERD/C/225/Add.3)	
ROMANIA	Mr. Luis Valencia Rodríguez
Ninth, tenth and eleventh periodic reports (CERD/C/210/Add.4)	

Reports considered by the Committee	Country rapporteur
SIERRA LEONE	Mr. Michael Parker Banton
Review based on previous reports and on review undertaken in 1991 (see A/46/18, paras. 279-282)	
SRI LANKA	Mrs. Shanti Sadiq Ali
Third, fourth, fifth and sixth periodic reports (CERD/C/234/Add.1)	
UNITED REPUBLIC OF TANZANIA	Mr. Ivan Garvalov
Review based on the sixth and seventh periodic reports (CERD/C/131/Add.11)	
TRINIDAD AND TOBAGO	Mr. Andrew R. Chigovera
Seventh, eighth, ninth and tenth periodic reports (CERD/C/224/Add.1)	
UNITED ARAB EMIRATES	Mr. Ion Diaconu
Seventh, eighth, ninth, tenth and eleventh periodic reports (CERD/C/279/Add.1)	

ANNEX VII

General recommendation XIX (47) on article 3, adopted at the 1125th meeting, on 17 August 1995

1. The Committee on the Elimination of Racial Discrimination calls the attention of States parties to the wording of article 3, by which States parties undertake to prevent, prohibit and eradicate all practices of racial segregation and apartheid in territories under their jurisdiction. The reference to apartheid may have been directed exclusively to South Africa, but the article as adopted prohibits all forms of racial segregation in all countries.

2. The Committee believes that the obligation to eradicate all practices of this nature includes the obligation to eradicate the consequences of such practices undertaken or tolerated by previous Governments in the State or imposed by forces outside the State.

3. The Committee observes that while conditions of complete or partial racial segregation may in some countries have been created by governmental policies, a condition of partial segregation may also arise as an unintended by-product of the actions of private persons. In many cities residential patterns are influenced by group differences in income, which are sometimes combined with differences of race, colour, descent and national or ethnic origin, so that inhabitants can be stigmatized and individuals suffer a form of discrimination in which racial grounds are mixed with other grounds.

4. The Committee therefore affirms that a condition of racial segregation can also arise without any initiative or direct involvement by the public authorities. It invites States parties to monitor all trends which can give rise to racial segregation, to work for the eradication of any negative consequences that ensue, and to describe any such action in their periodic reports.

ANNEX VIII

Decision of the Committee on the Elimination of Racial Discrimination under article 14 of the International Convention on the Elimination of All Forms of Racial Discrimination

Forty-sixth session

concerning

Communication No. 5/1994*

Submitted by: C. P.

Alleged victims: The author and his son, M. P.

State party concerned: Denmark

Date of communication: 13 January 1994 (initial submission)

The Committee on the Elimination of Racial Discrimination, established under article 8 of the International Convention on the Elimination of All Forms of Racial Discrimination,

Meeting on 15 March 1995,

Adopts the following:

Decision on admissibility

1. The author of the communication is C. P., an American citizen of African origin living in Roskilde, Denmark. He submits the communication on his behalf and on behalf of his son, and contends that they have been the victims of racial discrimination by the municipal and police authorities of Roskilde and the Danish judicial system. He does not invoke specific provisions of the International Convention on the Elimination of All Forms of Racial Discrimination.

The facts as submitted by the author

2.1 The author is an African American, who has been residing in Denmark since 1963; he married a Danish citizen in 1963, who later left him and from whom he is now divorced. From 1964 to 1972, he worked for a chemicals company in Roskilde; from 1972 to an unspecified date, he worked for Kodak Inc., as shop steward in a warehouse. In September 1990, he was elected shop steward at the Roskilde Technical School. He contends that starting in October 1990, students of the school began to display signs of racism towards him; the school authorities allegedly did not intervene. Mr. P. claims that a number of students, with the blessing of their teacher, carved a racially offensive inscription and cartoon into a red brick. The inscription ran approximately as follows: "A coal black man hanging from a gallows, with large red lips". Under this was inscribed the word "nigger". This brick and other, similar ones, allegedly were openly displayed in the author's working area. Again, the school authorities failed to intervene and allowed the display to continue.

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* Made public by decision of the Committee on the Elimination of Racial Discrimination.

2.2 On 19 November 1990, the author participated in a meeting of the School Staff Council; at the meeting, he showed two of the bricks and asked the school's support in fighting or suppressing this form of racism. To his surprise, the director of the school criticized him for raising the issue; no measures were taken to identify the students responsible for the "display". The author adds that after the meeting, the school director, head teacher and technical manager refused to talk to him.

2.3 In January 1991, the author was informed that he was to leave immediately, with 10 minutes' notice only, the area where he had been working since being hired by the school. He attributes this to the hostile and discriminatory attitude of the school superintendent and others towards him. Still in January 1991, the author was asked to carry out certain tasks in the school cafeteria, during student breaks. Here, he allegedly was again confronted with the racist remarks and slogans of the students directed towards him; when he asked the school director to be removed from the area, the latter refused. In May 1991, after what the author refers to as "months of racial harassment", the school director and technical manager dismissed him.

2.4 As to the events concerning his son, the author submits the following: on 20 July 1991, the author's son M., then 15 years old, was stopped on his bicycle at a traffic light by a group of four young men aged 17 and 18, who severely beat him, using, inter alia, beer bottles. M. sustained a number of injuries (nose, front, cheeks and jaw), which have since necessitated numerous plastic surgery interventions; the last such intervention was in 1994. According to the author, all four men had previously made racist slurs and remarks to his son and that, in 1988, they had tried to drown him in a lake in a public park. This previous incident had been reported to the police which did not, according to the author, investigate it but dismissed it as a "boyish joke".

2.5 The author immediately reported the incident of 20 July 1991 to the police. He complains that the police requested to see his residence permit and a copy of his rental agreement instead of swiftly investigating the matter; according to him, the police was reluctant to investigate the incident expeditiously and thoroughly, which allegedly had to do with his colour. Two of his son's assailants were briefly kept in police custody for interrogation; another was remanded in custody for another week.

2.6 The author claims that the court proceedings against his son's aggressors were biased, and that the defendants were allowed to "distort" the evidence in the case. Eventually, one received a suspended prison sentence of 60 days, whereas two others were sentenced to pay ten daily fines of 50 and 100 Danish kroner (DKr), respectively. According to the author, the outcome of the case was at odds with the medical evidence presented and the doctor's testimony in court. Mr. P complains about an alleged "judicial cover-up" of the case, noting that the mother of one of the defendants works for the Roskilde District Court. The author's attempts to have the case removed from the docket of the Roskilde District Court and moved to another venue in Copenhagen were unsuccessful. In his initial submission, the author does not state whether he appealed the sentence against his son's aggressors pronounced by the District Court.

2.7 Concerning his dismissal from the Roskilde Technical School, the author notes that he filed a complaint for "racial harassment and unlawful dismissal". This complaint was heard on 8 and 9 April 1992, 11 months after the dismissal; it appears that, initially, the case was to be heard in January 1992. The author asserts that the school director and the technical manager "conspired" to distort and blur all the evidence. The judge dismissed the author's complaint, in a reasoned judgement of 29 pages, adding that Mr. P was not entitled to monetary compensation but to have his court and legal fees waived. According to the author, the judge refused to grant leave to a higher tribunal. On 10 June 1992, therefore, the author wrote to the Attorney-General, who advised him to submit the case to the Civil Rights Department. By letter dated 3 February 1993, the Department replied that the deadline for filing an appeal had expired. The author suspects that, since he had told his legal representative that he wanted to appeal, all the parties involved are "conspiring that he [should] not bring a racism case against ... the Danish Government".

2.8 Finally, the author refers to a malpractice suit which he filed against his lawyer. It transpires from his submissions that a panel of lawyers and judges, which included a judge of the Danish Supreme Court, has also dismissed this complaint.

The complaint

3.1 The author complains that he and his son have been victims of racial discrimination on the part of the Roskilde police and judicial authorities, and concludes that the judicial system and legal profession have shown much solidarity in covering up and dismissing his own and his son's case. He contends that there is no domestic law which would protect non-citizens and non-whites from racial harassment and unlawful dismissal in Denmark.

3.2 The author seeks: (a) a ruling under whose terms he is given a new hearing in his suit for unlawful dismissal against the Roskilde Technical School; (b) the Committee's recommendation that the aggressors of his son be re-indicted and prosecuted/tried once again for the offence of 20 July 1991; and (c) a condemnation of the attitude of the police and judicial authorities involved in the case.

The State party's information and observations and the author's comments thereon

4.1 In its submission under rule 92 of the Committee's rules of procedure, the State party divides the complaint into the suit for unlawful dismissal filed by Mr. P. and the criminal proceedings against the presumed aggressors of his son.

4.2 As to the first issue, the State party observes that, in April 1992, the Roskilde Court heard the complaint filed by the author on 19 November 1991 with a request that he be awarded 100,000 DKr for unlawful dismissal, and that it delivered its judgement on 5 May 1992. It notes that the author's claim, based on section 26 of the Liability for Damages Act, was founded partly on the argument that the Technical School had not taken any measures in connection with the appearance of the bricks with typically racist motives, partly on the claim that the school had remained passive vis-à-vis the author's request to discuss the matter in the Cooperation Committee, partly on the claim that the school had reacted to the author's grievances by transferring him to a post including work as a canteen watchman, and that the school had later dismissed him without any valid reason.

4.3 The State party notes that the Court, in its judgement, found that the author had not submitted the matter involving the display of the bricks to the school authorities until several weeks after Mr. P. had first seen the bricks. This delay, the Court held, contributed significantly to impeding the investigations into who was responsible for the display. On that ground, it concluded that the mere fact that investigations were slack was not in itself sufficient to hold the school liable for damages.

4.4 The Court, in its judgement, characterized as "very unfortunate" the failure of the school to take up Mr. P.'s complaints for detailed discussion of the incident in the Cooperation Committee when asked to do so, but found that this alone did not give rise to liability for damages. The Court further held that, at the time of Mr. P.'s transfer to another post, his dismissal would have been justified for financial reasons. The Court argued that the school could not be blamed for having tried to keep Mr. P. at work through transfer to another job which, in the judges' opinion, was not "obviously degrading", as claimed by the author.

4.5 The Court further observed that the fact that it did not become known until the examination of witnesses during the court hearing that the principal of the school had indeed had one of the bricks in his possession and had shown them to some of his assistants could not - however unfortunate this might appear - be deemed an unlawful act giving rise to the liability of the school.

4.6 With regard to the issue of exhaustion of domestic remedies by Mr. P., the State party gives the following information:

> Pursuant to section 368 of the Administration of Justice Act, the author could appeal the judgement of the Roskilde Court to the Eastern Division of the Danish High Court.
>
> Under section 372(1), the time allowed for appeal is four weeks from the day the judgement is given. Sections 372(2) and 399(2) regulate some exceptions to this rule and allow for appeals even after the expiration of this period.

4.7 By letter of 25 May 1992 addressed to the Ministry of Justice, the author outlined the circumstances which led to the proceedings before the Roskilde Court and its judgement in the case. No information was given in this letter as to when judgement had been given, nor were details given about the nature of the legal action. On 9 June 1992, the Ministry of Justice informed the author that it could not intervene in, or change, decisions handed down by courts of law. In this letter, the Ministry advised the author that he could appeal the judgement to the Eastern Division of the High Court and informed him about the statutory deadlines for the filing of such an appeal.

4.8 On 10 June 1992, the author petitioned the Department of Private Law in the Ministry of Justice for permission to appeal after the expiration of the period allowed for appeal (section 372(2) of the Administration of Justice Act). The Department then obtained the documents in the case as well as a statement from the author's lawyer, P. H. In a letter dated 18 September 1992, P. H. stated that he had sent a copy of the judgement of 5 May to the author on 6 May 1992, advising him that, in his opinion, there was not ground for appeal. As the lawyer did not hear from Mr. P., he wrote to him again on 19 May, requesting him to contact him telephonically. According to the lawyer, Mr. P. did not contact him until after the expiration of the appeal deadline, informing him that he indeed did want to appeal the judgement; in this connection, the author told

P. H. that he had not reacted earlier because he had been in the United States. The lawyer then explained the operation of section 372 of the Administration of Justice Act to him.

4.9 After completing its review of the case, the Department of Private Law refused, by letter dated 3 February 1993, to grant permission to appeal the judgement of the Court of Roskilde to the Eastern Division of the Danish High Court. Against this background, the State party contends that the author's complaint must be declared inadmissible on the ground of non-exhaustion of domestic remedies. It is due to the author's own actions and/or negligence that the judgement of 5 May 1992 was not appealed in time.

4.10 In this context, the State party notes that Mr. P. contacted the Department of Private Law once again on the same matter on 7 January 1994. His letter was interpreted by the Department as a request for reconsideration of the issue. By letter of 16 March 1994, the Department maintained its decision of 3 February 1993. By letter of 7 June 1994 addressed to the Department of Private Law rather than to the Supreme Court of Denmark, the author applied for legal aid for the purpose of filing an application with the Supreme Court, so as to obtain permission for an extraordinary appeal under section 399 of the Administration of Justice Act. On 9 August 1994, the Department informed him that an application to this effect had to be examined at first instance by the County of Roskilde, where his application had thus been forwarded to.

4.11 With regard to the events of 20 July 1991 involving the author's son, the State party refers to the transcript of the hearing before the Court of Roskilde, which shows that the incident opposing M. P. to three young residents of Roskilde was thoroughly examined, and evidence properly evaluated, by the Court. It notes that during the proceedings, medical certificates were obtained concerning the injuries sustained by M. P. On 25 November 1991, the Chief Constable of Roskilde filed charges against the three offenders, M. M. H., A. A. O. and J. V. B. The case was heard before the Roskilde Court with the assistance of a substitute judge of the City Court of Copenhagen, as one of the accused was the son of a clerk employed by the Roskilde Court. Additionally, there were two lay judges, as the case involved an offence punishable by the loss of liberty (section 686(2) of the Administration of Justice Act).

4.12 On 27 January 1992, the Court of Roskilde handed down its judgement in the case. The Chief Constable of Roskilde found the punishment imposed on M. M. H. (60 days' suspended prison sentence) too lenient. He therefore recommended to the public prosecutor for Zealand that the sentence against Mr. H. be appealed to the Eastern Division of the High Court, with a view to having an unconditional prison term imposed on Mr. H. The public prosecutor followed the advice and appealed, and the Eastern Division of the High Court, composed of three professional and three lay judges, heard the case on 3 June 1992. The Court concluded that given the violent nature of Mr. H.'s attack on M. P., an unconditional prison sentence of 40 days should be imposed.

4.13 As regards Mr. P.'s allegations submitted to the Committee on behalf of his son, the State party argues that they are inadmissible, partly because they fall outside the scope of the Convention, partly because they are manifestly ill-founded. It notes that the communication does not give any details about the nature of the violations of the Convention in relation to the way in which the authorities and tribunals handled the criminal case against the three persons accused of violence against M. P.

4.14 The State party denies that, because of the race and colour of M. P., the courts gave the three offenders a lighter sentence than others would have received for similar use of violence. It points out that no importance whatsoever was attached, in the proceedings either before the Roskilde Court or those before the Eastern Division of the High Court, to this element. It is submitted that on the contrary, both the courts and the police of Roskilde took the case against the three individuals accused of aggressing M. P. very seriously: this appears both from the sentence imposed on Mr. H. and from the fact that he was remanded in custody after the incident, upon order of the Court of Roskilde of 21 July 1991.

4.15 The State party further recalls that the prosecution authorities felt that the sentence of the Court of Roskilde was too lenient with regard to one of the aggressors, which is why this sentence was appealed to the Eastern Division of the High Court, which increased the sentence from 60 days' imprisonment (suspended) to 40 days' unconditional imprisonment. In this connection, it is noted that an unconditional sentence is exactly what the prosecution had called for initially.

4.16 Finally, as regards the question of damages to M. P., the State party notes that in the judgement of 27 January 1992 of the Roskilde Court, he was awarded DKr 3,270, which Mr. H. was required to pay. According to the decision of the Eastern Division of the High Court, of 3 June 1992, Mr. H. had paid this amount by that time. Damages awarded by this sentence covered only pain and suffering, while M. P.'s request that the offenders' liability to pay damages to him should be included in the sentence was referred to the civil courts. Pursuant to section 993 (2) of the Administration of Justice Act, claims for damages may be brought before the (civil) courts for decision. The State party ignores whether the author's son has in fact instituted (civil) proceedings in this matter.

5.1 In his comments, dated 25 January 1995, the author takes issue with most of the State party's arguments and reiterates that he was denied his civil rights, as were his son's. He again refers to the trial against the three individuals who had aggressed his son as "a farce", and complains that the lawyer assigned to represent his son never told the latter what to expect, or how to prepare himself for the hearing. Mr. P. complains that the judge was biased in allowing the accused to present their version of the incident one after the other without interference from the Court. He dismisses several passages in the judgement as "directly misleading" and complains that a professional judge was allowed to ask his son "subjective questions" and use his answers against him. He further asserts that by concluding that, on the basis of the testimonies heard by the court, it was impossible to say who exactly started the fight, the Court "protect[ed] racist attitudes of the whites" and used a "camouflage excuse to find the accused innocent".

5.2 The author further refers to what he perceives as a miscarriage of justice: what exactly the miscarriage consists of remains difficult to establish, but it would appear that the author objects in particular to the way the judge interrogated his son and allowed the testimony of the accused to stand. The author strongly objects to the decision of the prosecution not to appeal the sentences against two of the accused. The author sums up the Court's attitude as follows: "I ask how can a judge determine a fair decision without hearing all the evidence or even worse just listening to the criminals explaining unless he wanted to pass a lenient sentence. Which he did. Very unprofessional."

5.3 As to the proceedings concerning the allegedly racist and unlawful dismissal from employment at the Roskilde Technical School, the author reiterates his version of the events and submits that he has "exhausted every possible known means to be heard and appeal [his] case". He contends that the school was not justified in dismissing him out of financial considerations, as it had recently expanded its facilities and could have used the services of a shop steward. He alleges that before the Court, the director of the Technical School committed perjury.

5.4 The author emphatically asserts that the delays in appealing the decision of the Roskilde Court should not be attributed to him. He notes that he had trusted his lawyer to handle the issue of the appeal; contrary to the assertion of the State party and his former representative, he contends that he did contact his lawyer to confirm that he wanted to appeal "at all cost", even though his lawyer had advised him that the chances of succeeding on appeal were slim. He blames his lawyer for having acted evasively at around the time - that is, during the first days of June 1992 - when the deadline for appealing the decision of the Court of Roskilde was approaching. Furthermore, the author once again, even if indirectly, accuses his representative of malpractice and suspects that the lawyer struck a deal with the judge not to have the venue of the case transferred to the Copenhagen High Court.

5.5 In conclusion, the author contends that the State party's submission is replete with "preposterous inconsistencies" and dismisses most of its observations as "misleading", "incorrect", "untrue" or "direct misleading". It is obvious that he contests the evaluation of evidence made by the Courts in both cases - his action against the Technical School and the criminal case against the aggressors of his son - and is convinced that the cases were dismissed because of racist attitudes of all concerned vis-à-vis himself and his son. He complains that there is "no affirmative action against racism in Denmark today".

Issues and proceedings before the Committee

6.1 Before considering any claims contained in a communication, the Committee on the Elimination of Racial Discrimination must, in accordance with rule 91 of its rules of procedure, determine whether or not it is admissible under the International Convention on the Elimination of All Forms of Racial Discrimination.

6.2 The Committee has noted the arguments of the parties in respect of the issue of exhaustion of domestic remedies concerning Mr. P.'s claim of unlawful dismissal by the Technical School of Roskilde. It recalls that the Court of Roskilde heard the complaint on 19 November 1991 and delivered its reasoned judgement on 5 May 1992; said judgement was notified to the author by his lawyer on 6 May 1992. The author affirms that he did convey to his lawyer in time that he wanted to appeal this judgement, and he blames the lawyer for having acted negligently by failing to file the appeal within statutory deadlines. The Committee notes that the file before it reveals that the author's lawyer was privately retained. In the circumstances, this lawyer's inaction or negligence cannot be attributed to the State party. Although the State party's judicial authorities did provide the author with relevant information on how to file his appeal in a timely manner, it is questionable whether, given the fact that the author alleged to have been the victim of racial harassment, the authorities have really exhausted all means to ensure that the author could enjoy effectively his rights in accordance with article 6 of the Convention. However, since the author did not provide prima facie evidence that the judicial authorities were tainted by racially discriminatory considerations and since it was the author's own responsibility to pursue the domestic remedies, the Committee concludes that the requirements of article 14, paragraph 7 (a), of the International Convention on the Elimination of All Forms of Racial Discrimination, are not met.

6.3 As to the part of the author's case relating to the criminal proceedings against the aggressors of his son, the Committee notes that the police took these aggressors into custody after the author had reported the incident of 20 July 1991, and that the Chief Constable of the Roskilde police subsequently requested that they be criminally prosecuted. It also observes that the fact that one of the accused was the son of a Court clerk was duly taken into account, in that the authorities nominated a substitute judge from another venue to sit on the case. Moreover, it must be noted that the Chief Constable of Roskilde recommended, after judgement in the case had been passed, that the sentence against one of the offenders be appealed, with a view to increasing the sentence against Mr. H.; the public prosecutor for Zealand complied with this request, and the Eastern Division of the High Court imposed a term of unconditional imprisonment on Mr. H. After a careful review of available documents in the case of the author's son the Committee finds that these documents do not substantiate the author's claim that either the police investigation or the judicial proceedings before the Court of Roskilde or the Eastern Division of the High Court were tainted by racially discriminatory considerations. The Committee concludes that no prima facie case of violation of the Convention has been established in respect of this part of the communication, and that, therefore, it is equally inadmissible.

7. The Committee on the Elimination of Racial Discrimination therefore decides:

(a) That the communication is inadmissible;

(b) That this decision shall be transmitted to the State party and to the author.

[Done in English, French, Russian and Spanish, the English text being the original version.]